

WESTERN HEMISPHERE

ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a bicameral legislative assembly composed the Government. A Governor General, appointed by the British monarch, was the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976. In the 1999 elections, which observers described as free but not fair, the ALP retained power by winning 12 of 17 parliamentary seats. The Constitution provides for an independent judiciary.

Security forces consisted of a police force and the small Antigua and Barbuda Defense Force. The police were organized, trained, and supervised according to British law enforcement practices. The civilian authorities generally maintained effective control of the security forces. There were reports of occasional instances of excessive use of force by the police and prison guards.

The country had a mixed economy with a strong private sector. The population was approximately 76,000. Tourism was the most important source of foreign exchange earnings. Economic activity in the first quarter expanded relative to the same period in 2001 due to increased activity in the construction, communication, and government services sectors. The country was burdened by a large and growing external debt, which remained a serious economic problem. Economic growth slowed to 1.5 percent in 2001 from 2.5 percent in 2000. The unemployment rate was 11 percent at the end of 2001.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of a killing in custody and of police brutality. Prison conditions were poor, and there were allegations of abuse of prison inmates and sexual harassment of female prison guards. Opposition parties had greater opportunities to express their views through a radio station that started operations in 2001; however, the radio station owners continued to report efforts by the Government to limit their access to the public. Societal discrimination and violence against women continued to be problems. Antigua and Barbuda was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—In May police shot and killed Andy "Natty Rough" Francis, who had been held more than 48 hours without being charged, when he attempted to escape the police station. His brother, Richard Williams, who was a prisoner, was denied permission to attend the funeral or view the body. The assistant police commissioner and three other police officers investigated the shooting; in addition, the Ministry of Public Security appointed a two-man commission to investigate. The Commission recommended a formal coroner's inquest, which could compel witness testimony, and also noted discrepancies in the police account of events.

In September Glen Harper died at his home in the Gambles area while police were attempting to subdue him after he beat his father unconscious. According to newspaper reports, Harper attacked the officers and almost bit off the finger of one of the officers. A post mortem revealed that Harper died as a result of a fractured spine after reportedly throwing himself against the wall and veranda of the house. The Director of Public Prosecutions (DPP) requested a formal coroner's inquest, which had not taken place by year's end.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the authorities generally respected these prohibitions in practice; however, there were occasional reports of police brutality and threatening behavior and allegations of abuse by prison guards.

In October a court found police Corporal Clarence Francis guilty on charges of shooting and wounding Gerald Collymore Horsford in December 2000 and sentenced him to 9 months in jail.

Prison conditions were poor. Conditions at the lone, 18th century prison worsened considerably after a fire destroyed most of the facility in 1999. The prison remained overcrowded, with 146 prisoners. Prison conditions were unsanitary and inadequate, particularly in regard to recreation and rehabilitation, but the Government asserted that an inspection in June 2001 by the United Kingdom's Inspectorate of Prisons had not found the prison or the food unsanitary. A followup inspection was conducted in November. The Rehabilitation Center for prisoners found guilty of committing minor crimes held seven male prisoners at year's end.

Pretrial detainees were not held together with convicted prisoners.

In July the Government established a task force to investigate and report any inappropriate behavior by management and staff at the prison during the previous 6 months and to investigate allegations of sexual harassment among prison staff and prisoners. Task force members included the Medical Superintendent at the Mental Hospital, a retired High Court Judge, a Senior Foreign Affairs Officer, and a retired Senior Probation Officer. While the Government did not make the report public, in September the Outlet newspaper reported that it called for the Prison Superintendent to step down, citing claims by female prison officers that the Prison Superintendent had harassed them sexually, which the superintendent denied. According to the newspaper, the task force also criticized prison management for causing resentment and morale problems among staff by favoring younger officers over more experienced officers and for not adequately investigating allegations that a prison guard was involved sexually with an inmate. The Labor Ministry's Permanent Secretary declined to take action on the task force report, based on an analysis by the Labor Commissioner that it lacked sufficient evidence to support its recommendation that the Prison Superintendent be discharged.

The women's prison facility was separate and did not experience the problems encountered in the men's prison. There was no separate facility for juveniles, who were housed with adult inmates.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions in practice.

Criminal defendants had the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention. However, members of the opposition United Progressive Party (UPP) asserted that there were instances where this was violated, particularly on Thursdays or Fridays, and that increasingly, arresting and detention officers were unavailable to arrange bail or to expedite the process of releasing detainees. The press reported that Andy Francis was held more than 48 hours without charges (see Section 1.a.).

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

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences. There were no military or political courts.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. In capital cases only, the Government provided legal assistance at public expense to persons without the means to retain a private attorney. Courts can reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and government authorities generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech, of the press, and other forms of communication, and the authorities generally respected these provisions in practice. Privately owned print media, including daily and weekly newspapers, were active and offered a range of opinion, often publishing vigorous criticism of the Government. However, the Government restricted opposition parties' access to electronic media, effectively denying them equal coverage.

The Government owned one of the three general interest radio stations and the single television station. A religious station broadcast without impediment. One of the Prime Minister's brothers owned the second radio station, and another brother was the principal owner of the sole cable television company. The Government-controlled media reported regularly on the activities of the Government and the ruling party but limited their coverage of and access by opposition parties.

In April 2001, the country's first independent broadcast media, the Observer radio station, became operational. Permission to operate the station was granted only after the United Kingdom Privy Council upheld the owners' suit against the Government for denying an operating license. This radio station, operated by the owners of the Observer newspaper, was accessible to political and religious groups of all persuasions, and was utilized occasionally by the Government. The opposition accused the Government of trying to marginalize the Observer radio station by refusing to grant it duty free concessions; ZDK Radio, which is owned by members of the Prime Minister's family, received such concessions. The opposition UPP, which publishes the Crusader newspaper, also applied for and received a radio license in 2001; however, the station had not begun operations at year's end.

The Government continued to restrict the opposition's access to the media, and there continued to be allegations of censorship as the result of subtle coercive pressure by influential persons. For example, owners of the Observer radio station claimed that several large corporations declined to advertise on the station for fear of losing lucrative government contracts. In addition, the Government, citing violations of the Telecommunications Act, revoked the owners' license to operate satellite transmission equipment and seized the equipment. At year's end, the Government withdrew individual charges against the owner but continued to press charges against the company.

Journalists and media houses continued to report efforts by the Government to restrict coverage of alleged government scandals. In February the Government asked Julius Gittens, a Barbadian journalist hired to help in the start-up phase of the Observer radio station, to leave the country on the basis that he had failed to follow the proper procedures to secure a work permit. Radio station personnel alleged that Gittens was asked to leave because the station had called for public inquiries into alleged government scandals. According to Gittens, government authorities told him he was not eligible to reapply for a new work permit on the basis of a nonpublished government ruling that limits work permits to no more than two nonnationals in any media house; he would be the third nonnational at Observer radio.

In August two separate fires interrupted the operations of ZDK Radio and the cable television station, both owned by members of the Prime Minister's family.

In May a lone masked assailant shot and killed the 1-year-old son of fire fighter Eldred Jacobs in a brutal attack at his home that wounded Jacobs and other family members. The newspapers reported that Jacobs, recently transferred from police headquarters, had made a call to an Observer radio program that was intercepted. According to the press reports, Jacobs was accused of saying that he believed in the veracity of allegations of criminal wrongdoing made against the Prime Minister, and that the police would not arrest the Prime Minister because they too were implicated. The radio station owners reported that, to their knowledge, no such call came into the station. The DPP questioned the accuracy of the press report but said he would ask for an inquest into the matter.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly. The police generally issued the required permits for public meetings but sometimes denied them to avert violent confrontations. The opposition held several demonstrations during the year to protest government policies and alleged government scandals. There were no reports of police interference with these demonstrations.

A court dismissed the Government's case against 10 of the residents of Bendals arrested in a protest demonstration in 2001 over threats to public health caused by

the operation of nearby quarries; however, the case against the group's chairman and one other protester remained in the courts at year's end.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief by the authorities or simply enforcement of the laws against marijuana, which was used as part of Rastafarian religious practice.

For a more detailed discussion see the *2002 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 Government assessed all claims by refugees under the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years; the last general elections were held in 1999. The Commonwealth observer group that monitored those elections reported irregularities in the electoral process and assessed the elections as free but not fair. The Governor General appoints the senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition.

In the 1999 elections, the Antigua Labour Party retained power by winning 12 of 17 parliamentary seats, 2 more than it had won in the previous elections in 1994. Except for a period in opposition from 1971–76, the ALP has held power continuously since 1951. The opposition charged that the ALP's longstanding monopoly on patronage and its influence over access to economic opportunities made it extremely difficult for opposition parties to attract membership and financial support. In 1992 public concern over corruption in government led to the merger of three opposition political parties into the UPP.

The Commonwealth report indicated that for the 1999 elections, the voters' register stood at 52,348 voters, of a total population of approximately 69,000 persons. Since 40 percent of the population were estimated to be below voting age, the voting rolls appeared to be inflated. According to the observer group, the weeklong voter registration appeared too restrictive and potentially disfranchised citizens, such as persons who would reach the voting age of 18 after July but before the elections. The observer group also recommended the establishment of an independent electoral commission to improve the voter registration process. In December 2001, Parliament amended the Representation of the People Act to provide for year-round registration to be effective after a new list of voters was compiled. In December the deadline to compile the new voters' list was extended to March 2003.

On April 4, the Government appointed the new Electoral Commission, which includes five members; three of the commission members (including the Chairman) were nominated by the Prime Minister and two were nominated by the opposition party. In November the opposition members walked out to protest the appointment of the Elections Supervisor, depriving the commission of a quorum and shutting down its operations. At year's end, a compromise was reached with the assistance of the Ombudsman, and it was agreed that the commission would start up again in early 2003. The Supervisor of Elections, as distinguished from the Chairman of the Electoral Commission, manages the office staff; the Electoral Commission sets policy.

There were no impediments to participation by women in government and politics. The Directorate of Gender Affairs participated in workshops to encourage women to become active in politics. There were no women elected to the 17-seat House of Representatives; there was 1 woman in the 17-seat Senate. In addition, the Speaker of the House of Representatives and the President of the Senate, both appointed positions, were women. The Attorney General, a Guyanese national resident in Antigua, was the only woman in the Cabinet.

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

There were no governmental restrictions on the formation of local human rights organizations. The Antigua and Barbuda Human Rights Association, chaired by a lecturer at the University of the West Indies, met sporadically. It represented individuals and groups who claimed that their rights had been violated.

The Government's Ombudsman has reviewed an increasing number of cases annually. The Ombudsman is chosen by both houses of Parliament; a resolution sets the length of his term. The current Ombudsman's term is 10 years or until age 70, whichever comes first. The office of the Ombudsman operates independently of the judiciary and the Director of Public Prosecutions; however, recommendations for trial must be approved by the DPP. The Ombudsman's office has the authority to pursue a recommendation through the ministry involved, directly with the Prime Minister, and ultimately may take the matter to Parliament. The Ombudsman, Hayden Thomas, reported that 90 percent of the cases he pursued were resolved successfully by contact with the concerned ministries. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, the ministries were often slow to implement his recommendations.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally respected these provisions in practice.

Women.—Violence against women was treated as a matter of public concern, and nongovernmental social welfare groups focused on the problem. Women in many cases were reluctant to testify against their abusers. A 1999 Domestic Violence Act prohibits and provides penalties for domestic violence, as well as rape and other sexual offenses. Organizations such as the Government's Directorate of Gender Affairs sought to increase women's awareness of their rights under the law in cases of domestic violence. The Directorate of Gender Affairs instituted a domestic violence program that included training for police officers, magistrates, and judges. The Directorate also ran a domestic abuse hot line and worked with a nongovernmental organization to provide safe havens for abused women and children. There were a number of active nongovernmental organizations that addressed issues affecting women.

Prostitution is prohibited, but it was a problem.

Sexual harassment is illegal, but it was rarely prosecuted. According to the Labor Department, there was a high incidence of sexual harassment reported by employees in both the private and public sectors.

While the role of women in society is not restricted legally, economic conditions in rural areas tended to limit women to home and family, although some women worked as domestics, in agriculture, or in the large tourism sector. Women were well represented in the public sector; 54 percent of the public service and over half the Permanent Secretaries were female. In addition, 41 percent of the bar association members were female.

The Professional Organization for Women of Antigua was a networking and resource group for female executives. It held seminars for women entering the workforce during the year.

Children.—While the Government repeatedly expressed its commitment to children's rights, its efforts to protect those rights in practice were limited. The Government provided education for children through the age of 16; it was free, universal, and compulsory. Children had access to health care and other public services.

Child abuse remained a problem. The age of consent is 16 years old. In August 2001, the police uncovered a child pornography and prostitution ring, and high-ranking members of society reportedly were implicated. A task force with representatives from both the Government and nongovernmental sectors was created to investigate the matter, but no cases had been successfully prosecuted by the end of the year. Several were dismissed because the complainant failed to appear.

In 2000 the Government established a committee to implement the U.N. Convention on the Rights of the Child. In addition, the Government joined the Global Movement for Children. UNICEF helped support a study of the needs of children and families, and its recommendations were being used to develop a National Plan of Action on Child Survival, Development, and Protection.

Persons with Disabilities.—No specific laws mandate accessibility for persons with disabilities, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There was no evidence of widespread discrimination against persons with disabilities, although the Government did not enforce the constitutional antidiscrimination provisions. There was one complaint

that a person was not hired due to a disability; the Labor Commission had the matter under review at year's end.

Section 6. Worker Rights

a. The Right of Association.—Workers had the right to associate freely and to form labor unions. Approximately 75 percent of workers belonged to a union, and the hotel industry was heavily unionized. There were two major trade unions: The Antigua and Barbuda Trades and Labour Union (ATLU) and the Antigua and Barbuda Workers' Union (AWU). The ATLU was associated with the ruling ALP, while the larger and more active AWU was allied rather loosely with the opposition.

The law prohibits antiunion discrimination. During the year, there were two reports of antiunion discrimination but, after investigating, the Labor Commission determined that the charges had not been proved. The Labor Commission can require that employers and employees submit to mediation if antiunion discrimination is alleged. However, the mediator's recommendations are not binding, and either party may seek recourse to the courts. Employers found guilty of antiunion discrimination were not required to rehire employees fired for union activities.

Unions were free to affiliate with international labor organizations, and they did so in practice.

b. The Right to Organize and Bargain Collectively.—Labor organizations were free to organize and bargain collectively.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Workers who provide essential services (including bus, telephone, port, and petroleum workers, in addition to health and safety workers) must give 21 days' notice of intent to strike. Once either party to a dispute requests that the court mediate, strikes are then prohibited under penalty of imprisonment. Because of the delays associated with this process, unions often resolved labor disputes before a strike was called. In addition, an injunction may be issued against a legal strike when the national interest is threatened or affected. The International Labor Organization's Committee of Experts repeatedly requested the Government to amend certain paragraphs of the 1976 Industrial Courts Act and the extensive list of essential services in the Labor Code, asserting that these provisions could be applied to prohibit the right to strike. During the year, there were seven strikes or work-related protests, including a strike against a government-owned utility company and one involving the seaport. The Education Ministry intervened in the teachers' disputes; the Labor Ministry intervened in the other cases, and the workers returned to work.

There were no export processing zones, but there were free trade zones that facilitated services such as international banking and gambling. The Labor Code applied equally to workers in these zones as elsewhere in the country.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids slavery and forced labor, including that by children, and they did not exist in practice.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law stipulates a minimum working age of 16 years, which corresponds with the provisions of the Education Act. In addition, persons under 18 years of age must have a medical clearance to work. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforced this law. The Labor Commissioner's Office also had an Inspectorate that investigated exploitative child labor matters. There was one report of a minimum age employment violation; the Labor Commission discussed the matter with both the employer and the employee, and the under-age employee stopped working.

e. Acceptable Conditions of Work.—The Labor Code provides that the Minister of Labor can issue orders, which have the force of law, to establish a minimum wage. During the year a tripartite committee of representatives from employers, employees, and government met and recommended changes to the minimum wage. In December the Minister of Labor increased the minimum wage and set it at \$2.22 (EC\$6.00) an hour for all categories of labor. The minimum wage provided a barely adequate standard of living for a worker and family, and in practice the great majority of workers earned substantially more than the minimum wage.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek was 40 hours in 5 days. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services continue to pay 60 percent of wages for an additional 7 weeks, for a total of 13 weeks.

The Government has not yet developed occupational health and safety laws or regulations, but a section of the Labor Code includes some provisions regarding occupational safety and health. Plans to incorporate comprehensive legislation on safety, health, and the welfare of workers into the existing Labor Code have not been implemented. The Government was exploring alternative sources of funding to purchase health and safety equipment. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—There were no laws that specifically address trafficking in persons. At year's end, official investigations were in progress to determine whether illegal aliens had been trafficked from the country to the United States in 2000 and 2001.

ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In 1999 voters elected President Fernando de la Rúa in generally free and fair elections. After protests in December 2001, de la Rúa resigned and was succeeded briefly by three interim presidents before the Legislative Assembly elected Eduardo Duhalde to serve out the remainder of the de la Rúa term. The Constitution provides for an independent judiciary, but judges and judicial staff were inefficient and at times subject to political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Federal Police (PFA) report to the Ministry of Justice, Security, and Human Rights, as do the Border Police ("Gendarmeria") and Coast Guard. The PFA has jurisdiction in the Federal Capital and over federal crimes in the provinces. Provincial police are subordinate to the provincial governors. Some members of the security forces committed human rights abuses.

The country has a market-based mixed agricultural, industrial, and service economy and a population of approximately 36.2 million. A recession that began in 1998 deepened, and production and consumption dropped sharply after the banking system was paralyzed, the Government defaulted on loan obligations, and the local currency—uncoupled from the dollar—lost 70 percent of its value. Per capita gross domestic product dropped from \$7,418 in 2001 to approximately \$2,700, and unemployment rose to 21.5 percent. Income disparities increased, and over 50 percent of the population lived below the poverty line.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were instances of killings, torture, and brutality by police and prison officials. Authorities prosecuted some police for such actions, although impunity continued, particularly in jails and prisons. Police corruption was a problem. Police used excessive force against demonstrators on several occasions. Overcrowding in jails and prisons was a problem. Provincial police sometimes arbitrarily arrested and detained citizens. The judiciary showed clear signs of politicization. The judiciary continued to work through the legacy of human rights abuses of the "dirty war" of the 1976–83 military regime. Anti-Semitism remained a problem; however, the Government took steps to combat it. Domestic violence against women was a problem. Discrimination against racial and ethnic minorities persisted. Child labor was a problem. Argentina was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings; however, police and prison officers were responsible for a number of killings involving the use of unwarranted or excessive force. The authorities investigated and in some cases detained, tried, and convicted the officers involved; however, impunity for those who committed abuses was sometimes a problem.

There were a number of killings, including prison killings with suspected official involvement, killings at the time of apprehension, killings of demonstrators, and killings by stray bullets.

On June 18, Daniel Chocobar died after being attacked by another prisoner the previous day. Chocobar had been transferred to Prison Unit 9 of La Plata, Buenos

Aires, after having denounced mistreatment in 2001 in General Alvear prison, where other prisoners subsequently reported that officials offered them incentives to kill Chocobar (see Section 1.c). Chocobar's death followed that of at least four other prisoners who had filed complaints or served as witnesses against prison mistreatment.

On June 26, Dario Santillan and Maximiliano Kosteki were shot and killed following a confrontation between police and roadblock demonstrators in the Buenos Aires suburb of Avellaneda (see Sections 1.c. and 2.b.).

On September 14, Roque Sebastian Villagra was killed by Federal Police in Buenos Aires. The police initially reported that Villagra was killed while resisting arrest; however, an autopsy later determined that Villagra, who had a police record, was shot in the back of the neck at close range. Three police were under preventive detention at the end of the year.

Also on September 14, Federal Police agents forced three youths to jump into the Riachuelo river. One of the youths, 19-year-old Ezequiel Demonty, drowned. An autopsy showed Demonty, who had a hearing disability, received blows in the face and head prior to his drowning. Nine police were detained and charged with "illegal deprivation of liberty followed by death," although the case initially was filed as "torture followed by death." At year's end, the case had not come to trial.

Of the estimated 27 deaths that occurred in relation to the December 2001 store lootings and demonstrations, at least 5 in the city of Buenos Aires, 3 in Rosario and 1 in Santa Fe appeared attributable to police, according to information compiled by the Center for Legal and Social Studies (CELS). In the case of the five demonstrators killed in downtown Buenos Aires, an investigation began shortly after the events. A federal judge ordered the arrest of the former Minister of Interior, the Secretary of Interior, and various other officials. The two political level officials were released, although not exonerated, approximately 5 months later at the order of a higher court, which also ordered that the former Minister and the former President be questioned in the continuing investigation. Judge Oswaldo Barbero's investigation into the deaths that occurred in Rosario remained pending at year's end.

The policeman whose personal weapon fired the bullet that killed bystander Edith Acevedo in El Talar, Buenos Aires Province, in March 2001, was convicted of homicide on November 7. The judge suspended his sentence of 3 years and released him after he had spent over 18 months under detention pending trial.

Two police officers were charged in the case of the April 2001 killings of minors Gaston Galvan and Miguel Burgos whose bodies with hands and feet tied had been found with multiple gunshot wounds on a roadside in Tigre, Buenos Aires Province: One of the officers was in jail and the other was a fugitive. Two other officers from the same suspected group—which some human rights groups considered a death squad—were under detention for the killings of other minors. The deaths of 64 minors who were killed in supposed confrontations with police in Buenos Aires Province during 1999 and 2000 remained under investigation by the Attorney General. In March the Attorney General made public the first report on his investigation into the suspicious deaths of minors, including a list of 15 police officers suspected of involvement.

There was no new information on the investigations in: The March 2001 shooting death of 16-year-old Martin Gonzalez in Tigre, Buenos Aires Province (with suspected involvement of a policeman) or the June 2001 deaths of Carlos Santillan and Oscar Barrios (apparently related to confrontations between police and roadblock protesters).

On March 14, Cordoba's general prosecutor closed the investigations into the 2000 death of Vanesa Lorena Ledesma, a transvestite who died after 5 days under detention for a bar fight, concluding that Ledesma died of natural causes related to a congenital heart anomaly.

In June a court convicted policeman Francisco David Bravo of homicide in the line of duty in the 2000 death of Juan Marcelo Carunchio in Cordoba. The court sentenced him to 2 years and 6 months, which was suspended and prohibited him from working as a police officer for 5 years. The court ordered police and provincial government to pay an indemnity to Carunchio's family.

In October a former Caseros prison guard was convicted of homicide and sentenced to 20 years for the 2000 restaurant killing in which Maximiliano Noguera allegedly participated with the connivance of penitentiary staff. Another Caseros prison inmate was sentenced to 8 years for the associated robbery.

A policeman, Felipe Gil, was under detention and awaiting trial for homicide in the deaths of Jose Zambrano and Pablo Rodriguez in Mendoza Province in 2000. Several police who were detained in a related corruption case were later exonerated.

There was no new information on the killings in 2000 of Manuel Fernandez in Jujuy, Jorge Marcelo Gonzalez in Corrientes, or Anibal Veron in Salta.

A trial of police officers suspected of killing two hostages as well as a robber in the 1999 Villa Ramallo bank robbery—which some believe was done to hide possible police involvement in the robbery—remained pending at year's end. A trial for the robbery itself ended in September with several convictions, including that of one policeman.

The investigation continued into the 1994 terrorist bombing of the Buenos Aires Jewish Community Center (AMIA) in which 85 persons were killed. The trial of 20 suspects (15 of whom are former police officers) accused of providing material support for the attack began in September 2001 and continued at year's end (*see* Section 5).

Courts continued to challenge the “Due Obedience” and “Full Stop” amnesty laws and pardons that benefited those suspected of having committed human rights violations during the 1976–83 military regime. In one such case, Judge Rodolfo Canicoba Corral investigated cooperation among military and security officials of the six participating nations of “Operation Condor.” In another case, in July Federal Judge Bonadio ordered the detention of over 40 individuals, mainly former military, intelligence, and police officials, including Leopoldo Galtieri (now deceased) and former generals Cristino Nicolaides and Carlos Suarez Mason. Bonadio was investigating the kidnaping and killing of 18 exiled Montonero guerrillas who had returned to the country for a 1979–80 “counteroffensive.” Other prosecutions of “dirty war” era offenses included cases stemming from crimes committed prior to the 1976 military coup, crimes involving theft of detainees’ goods, and crimes related to the appropriation of minor children of detainees (*see* Section 1.b.). “Truth Trials” continued and in some cases brought testimony resulting in new court cases challenging the amnesty laws.

The final decision as to the validity of the amnesty laws reached the Supreme Court, after federal judge Gabriel Cavallo declared amnesty laws invalid in March 2001 and an appeals court upheld that decision the following November. Cavallo and the appeals court based their decisions in part on the argument that the crimes at issue were proscribed by international law, which under Argentina’s constitution would take precedence over local law (*see* Section 1.b.). In August Attorney General Nicolas Becerra issued an opinion arguing that the Supreme Court should declare the amnesty laws unconstitutional.

Judicial authorities in Spain, Italy, France, Sweden, and Germany sought to prosecute those believed responsible for disappearances and killings during the military regime. In a December 2001 decree, the Government stated that the Foreign Ministry would refuse extradition for acts that occurred in its national territory or under its jurisdiction, confirming a long-held policy. In January the Government rejected Sweden’s request for extradition of formal naval officer Alfredo Astiz.

Retired Navy Commander Ricardo Cavallo, arrested in Mexico in 2000, continued legal challenges in Mexico to his extradition to Spain to face charges of genocide, torture and terrorism.

In July Chile rejected Judge Maria Servini de Cubria’s request for extradition of six former military and intelligence officials for the 1974 assassination of Chilean general Carlos Prats and his wife in Buenos Aires on the grounds that the extradition request had not included sufficient information to prove the participation of the officials in the crime. In March Chilean courts also rejected the extradition of the former director of the Chilean intelligence agency Manuel Contreras, requested by Judge Canicoba Corral in the Operation Condor investigation for similar reasons.

During the year, 45 Federal Police were killed in the Buenos Aires area: Six were on regular duty, and the others were performing official guard services.

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

Judicial proceedings and extradition attempts related to killings, disappearances, and torture committed by the 1976–83 military regimes continued (*see* Section 1.a.).

The Under Secretariat for Human Rights, which maintains the files of the National Commission on Disappeared Persons (CONADEP), received 9,005 claims for financial compensation from families of those who died or disappeared during the military dictatorship. While some human rights groups claimed that as many as 30,000 persons disappeared, the number of compensation applications suggested that a figure between 10,000 and 15,000 may be more accurate.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate the kidnaping and illegal adoption by members of the former military regime of children born to detained dissidents. There were an estimated 250 to 300 such cases. The Grandmothers also assisted families in presenting about 200 cases of kidnaped children nationwide and by mid-year had identified 73 children of disappeared persons.

In March Uruguayan Sara Mendez, whose baby was kidnaped while she was detained in a clandestine detention center in Argentina in 1976, was reunited with her 26-year-old son Simon Riquelo.

Francisco Gomez was imprisoned and his wife, Teodora Jofre, placed under house arrest, accused of falsifying documents and appropriating the child of Patricia Roisinblit and Jose Manuel Perez, born while the parents were held in a clandestine detention center. Navy doctor Jorge Luis Magnacco also remained under house arrest for having attended the clandestine births.

A Supreme Court decision was pending in the case of a suspected daughter of a couple who disappeared; the daughter refused a 2000 court order to provide a blood sample for DNA analysis to prove her true identity. The woman said that she will submit the sample voluntarily only if her adoptive parents, who have been detained since 1999 on charges of illegal adoption and substitution of identity, are given immunity.

Many of the military junta leaders sentenced in 1985 to life imprisonment for crimes committed during the military dictatorship, who were pardoned in 1990 and then rearrested in 2000, remained under house arrest.

Despite amnesty laws benefiting those suspected of human rights abuses during the dirty war, since 1995 human rights activists have pursued truth trials, intended to correct official records, especially with regard to the fate of those who disappeared and those born in captivity (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture, and the Criminal Code provides penalties for torture similar to those for homicide; however, torture and brutality by police and prison guards remained serious problems. Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the prison and police forces. The Government investigated some reports of police or prison brutality, but few cases were tried and even fewer resulted in convictions. In some jurisdictions, such as Mendoza Province and greater Buenos Aires, threats to witnesses and advocates made prosecution of abuses and reform more difficult. A January 2001 report of the U.N. Special Rapporteur on Torture recalled concerns raised in the U.N. Human Rights Commission's October 2000 review under the International Covenant on Civil and Political Rights. In particular, the Rapporteur noted concerns about allegations that torture and excessive use of force by police officials were "a widespread problem and that government mechanisms established to address it are inadequate." The Rapporteur's report also expressed concern about prison conditions and cited specifically "the severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care." The report also stated that it had been established that there had been "abuses of authority by prison officials, such as torture and ill-treatment and corruption." A Secretariat for Human Rights for Buenos Aires Province was created in January, with one of its first tasks being development of a Program for the Prevention of Torture.

In 2001 three federal judges strongly criticized "the generalized practice of torture in all its forms in a systematic way, in the area of investigations and the treatment of detainees, especially in the Province of Buenos Aires, where there is a history of authoritarian style state violence." The judges based their report in part on a 2000–01 investigation by public defender Mario Coriolano and noted that few instances of complaints were sustained in courts because of the difficulty of obtaining proof due to witnesses' fear of reprisals.

According to press reports, a study by the National Attorney General's office indicated that of 676 complaints filed in the Federal Capital of Buenos Aires in 2000 for illegal harassment or torture, only 4 public trials were held, and there were no convictions. In the first half of 2001, 271 complaints were filed; 2 trials were held that resulted in 1 conviction. A July 26 report by CELS to the U.N. Special Rapporteur on Torture indicated that the number of complaints for torture of minors under state supervision in Buenos Aires Province more than doubled in the first 6 months of the year over the same period in 2001. In general there was little improvement in the treatment of prisoners, including minors, and impunity for abuses prevailed. Steps were taken that could weaken detection and prosecution, such as placing the Buenos Aires provincial prosecutor rather than the public defender in charge of registering abuses.

On May 10, police in the Buenos Aires suburb of Florencia Varela detained a young couple to "check their records." The two were then beaten. Upon her release, the woman, Andrea Viera, already in poor health, had to be taken to a hospital where she died several days later. An investigation was begun and seven police were detained and are awaiting trial.

According to witnesses and consistent with an autopsy report, Ezequiel Desmonty was beaten by police prior to being forced into a river where he drowned on September 14 (*see* Section 1.a.).

Two police officers were charged in the April 2001 killings in Tigre, Buenos Aires, of two boys whose families had filed torture complaints: One of the officers was in jail, and the other was a fugitive (*see* Section 1.a.).

There was no new information in the two 2001 cases of beating and intimidation of police witnesses who alleged police corruption, involving Adrian Lopez in Mendoza Province and Roberto Lucero and Maria de los Angeles de Romero in Buenos Aires Province.

Five police agents, including a chief, were jailed and face charges for torture in the case of Javier Villanueva, detained in Lomas de Zamora, Buenos Aires Province in October 2001, and later determined by a medical examination to have been subject to torture by electrical shock.

In May a court convicted a policewoman, three other former provincial police, and a member of the national intelligence agency (SIDE) and sentenced them to 3 to 15 years in prison for the 2000 beating of Ariel Simonini in Tres de Febrero, Buenos Aires Province.

There was no further information in Judge Mario Castillo Sola's investigation of the 2000 kidnaping and torture of Aldo Bravo by provincial police of Santiago del Estero or in Judge Hugo Perotti's investigation into the 2000 police beating of Cristian Omar Lopez in Diamante district.

There were numerous charges of police corruption. Police activities were often not well financed and police were not well paid, with a starting monthly salary of \$110 (400 pesos) compared with an average worker's earnings of approximately \$150 (550 pesos) monthly. A police captain earns approximately \$560 (2,000 pesos) monthly. Police often performed official contract guard duty to earn extra money. Police corruption was systemic; some of the most common practices included extortion of and protection for those involved in illegal gambling, prostitution, and auto theft rings, as well as detention and extortion of citizens under the threat of planting evidence to charge them for crimes. Addressing police corruption was difficult in part because the suspects intimidated whistleblowing colleagues, judicial officials, and civilian witnesses. Threats and beatings allegedly aimed to intimidate witnesses were common and, in some cases, occurred in connection with murders believed committed by members of security forces (*see* Section 1.a.).

Provincial police and Federal Border Police clashed with demonstrators on numerous occasions during the year (*see* Section 2.b.). On a number of occasions police used tear gas, water cannons, and rubber bullets to disperse demonstrators, and injuries and deaths were reported. In a confrontation in Buenos Aires Province on June 26, two persons were killed and others were injured (*see* Sections 1.a. and 2.b.).

The investigation into the killing of at least five persons in protests in Buenos Aires in December 2001 continued, and there were a number of detentions made in the case (*see* Sections 1.a., 2.b., and 3.).

In the March 2001 beating of Maria Dolores Gomez, public defender in San Isidro, Buenos Aires Province, investigations failed either to substantiate that the assault on Gomez were related to her work or to corroborate evidence of threats to Gomez. However, the Border Police provided protection to Gomez in response to a request by the Inter-American Commission on Human Rights (*see* Section 1.e.).

There was no known progress in the investigations into the January 2001 explosion that damaged a Shi'a Muslim mosque in Buenos Aires (*see* Section 5) or into the May 2001 attack on the daughter of political activist Hebe de Bonafini in Buenos Aires Province (*see* Section 4).

Prison conditions were poor. Some facilities are old and dilapidated, and many prisons and jails were overcrowded. A notable increase in crime and stricter provisions for early release combined with a slow judicial system to fill prisons and police stations to well above capacity. According to CELS, in Buenos Aires Province (which accounts for over 37 percent of all prisoners nationwide) 24,200 prisoners were held in facilities designed for 15,900, and over 80 percent of those incarcerated were held in pretrial detention. The overcrowding contributed both to security problems—such as jailbreaks and riots—and to mistreatment of prisoners.

Torture and brutality by prison guards and officials remained serious problems. A number of prisoners who had previously filed complaints about torture and mistreatment were killed in prison in 2001 and 2002. After filing a torture complaint at General Alvear Prison in 2001, Daniel Chocobar produced witnesses who testified that prison officials had offered other prisoners benefits in exchange for killing him. Chocobar was transferred but was stabbed by another prisoner at Prison Unit 9 in La Plata on June 17 and died the next day. Several other prisoners, such as Juan

Ramon Gonzalez Sosa, who had testified about mistreatment at General Alvear prison, were also killed under suspicious circumstances in 2001 (see Section 1.a). There was no reported serious investigation of these cases by the penitentiary service.

Hernan Larranaga, a prisoner burned in his isolation cell after prison officials were seen carrying a suspicious liquid there in July 2001, survived after months of intensive burn therapy. He remained incarcerated, and there were reports that his life would be under threat in any of the Buenos Aires Penitentiary units. There was no new information on the investigation into the burning.

Corruption among prison guards was a problem. Incidents in various prisons in Buenos Aires Province suggested the existence of a network of prison corruption aimed at retaliating against and silencing prisoners who filed complaints about torture. In a public trial that began in September for the killing of a police officer guarding a restaurant in 1998, a prisoner claimed he was released to commit crimes and shared a portion of the proceeds with prison guards, one of whom was also a participant in the restaurant incident. This case was linked to the 2001 prison guard taping of testimony by prisoner Carlos Sandez Tejada and the suspicious deaths of prisoners Maximiliano Noguera and his former cellmate and witness to prison irregularities, Miguel Angel Arribas (see Section 1.a.). The January 2001 report of the U.N. Special Rapporteur for Torture noted concerns about "abuses of authority by prison officials, such as torture and ill treatment, and corruption."

Under national regulations, pretrial prisoners may not be held together with convicted prisoners; however, reliable reports indicate that this segregation of prisoners often was not respected in practice.

The law provides for separate facilities for women and for minors, and these were available.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Penal Code limits the arrest and investigatory power of the police and the judiciary; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. Human rights groups found it difficult to document such incidents and said that victims were reluctant to file complaints because they feared police retaliation or did not believe that their complaints would result in any action.

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argued that this provision of law was disregarded in order to extort money from persons by threatening to charge them with illegal weapons or drug possession.

A 2001 law permits the Federal Police to question suspects at the scene of the crime and to hold suspects incommunicado for up to 10 hours. It also gives police additional search powers (see Section 1.f.).

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often resulted in lengthy pretrial detentions (see Section 1.e.). If convicted, a prisoner usually receives credit for time already served. According to local authorities, approximately 70 percent of the inmates in the federal prisons of the greater Buenos Aires area were in pretrial detention. The law provides for the right to bail, and it was utilized in practice.

The law does not permit forced exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, its judges and judicial personnel were inefficient and at times subject to and apt to exercise political influence. The system was hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Judges have broad discretion as to whether and how to pursue investigations, contributing to a sense that many decisions are arbitrary. Allegations of corruption were reported widely, but only a small number of investigations, judicial impeachment trials, and dismissals of judges actually took place. Allegations of corruption in provincial courts were even more frequent than at the federal level, reflecting strong connections between some governors and judicial powers in their provinces.

Throughout much of the year, the National Congress pursued an effort to impeach all the members of the Supreme Court. Charges against the members ranged from failure to investigate the 1992 bombing of the Israeli Embassy to a broad variety of ethics issues. There was a widespread perception that the impeachment effort was highly politicized. Although the Impeachment Committee of the Chamber of Deputies recommended the impeachment of all nine Justices, the impeachments

were shelved in October when none gained a two-thirds majority in the full Chamber.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary and witnesses (*see* Sections 1.a., 1.b., and 1.c.).

On June 4, in Villa Carlos Paz, Cordoba Province, teenage Ian Duran was shot to death shortly before he was expected to testify in the investigation into the May murder of Pablo Jossens. In June a detective investigating the Jossens case was also shot to death, and, according to press accounts, the initial prosecutor for the case received threats and turned the case over to another prosecutor. In September Duran's family began receiving death threats, and in November Duran's mother, also a potential witness in the Jossens case, was attacked and told to keep silent. In December the former police chief was taken into custody and charged with secondary participation in the murder of Jossens.

The Government provided a Border Police protection detail for public defender Maria Dolores Gomez, who was beaten and reportedly received threats attributed to prison authorities in March 2001. An investigation into the threats failed to substantiate them (*see* Section 1.c.).

There was no new information in the investigation into the 2000 death threats received by Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi, apparently in relation to investigations of kidnaping of children during the dirty war (*see* Section 1.b.). Additional security was provided to them.

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it. The federal courts are divided between the criminal courts and economic courts.

The Council of Magistrates submits a slate of candidates for each federal judicial vacancy to the President, whose selection is subject to Senate approval. The Council also conducts impeachment hearings and administers the federal court system. In October there were 93 vacant positions and 67 slates awaiting Executive decisions. Two judges were removed by the Council.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. Federal and provincial courts continued the transition to oral trials in criminal cases, instead of the old system of written submissions. However, substantial elements of the old system remain. For example, before the oral part of a trial begins, judges receive pretrial written documentation regarding the case, which, according to prominent legal experts, could bias a judge before oral testimony is heard. Lengthy delays in trials were a problem. The 1994 Constitution provides for trial by jury; however, required implementing legislation has not been passed. There is a provision for counsel for indigents; however, in practice counsel may not always be provided due to a lack of resources.

Several groups expressed concern regarding laws for judicial proceedings regarding minors (*see* Section 5).

Nine of the 11 prisoners convicted in the 1989 assault on the army barracks at La Tablada received conditional liberty in May.

There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. Violations were subject to legal sanction. In practice local police stopped and searched individuals without probable cause—a practice that increased as crime rates rose.

A 2001 law gave Federal Police new powers, including the power to enter the scene of a search without civilian witnesses in case of danger; to take evidence of a crime found while searching for items related to a different crime; and to search anyone, their belongings and cars, without a court order in order to find items “stemming from or constituting a crime or which could be used to commit one” as long as prior circumstances justify it and they are done in a place that is public or with unrestricted access. The law also provides for expanded powers of detention (*see* Section 1.d.).

A 2001 intelligence law provides for legislative oversight over government intelligence activities and prohibits unauthorized interception of telephone, postal, facsimile, or other voice or image transmissions as well as other kinds of information, files, and private documents. On June 6, the Government issued implementing regulations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely. The Federal government owns the Telam wire service, a radio network, and a television station. A few provincial governments also own broadcast media.

There was no information on the status of investigations into the March 2001 delivery of a hand grenade and note to Carlos Abrehu, editor of *La Gaceta* of Tucuman, or of the shots fired into the homes of radio journalists Edgardo Soto in Santa Rosa and Martin Oeschger in Santa Fe's Capitan Bermudez in February and June 2001, respectively.

In June 2001, the Special Rapporteur for the U.N. Commission on Human Rights visited the Province of Santiago del Estero where daily *El Liberal's* reproduction of an insulting headline brought an onerous legal challenge by the Women's Branch of the Peronist Party. In his report released on February 25, the Special Rapporteur stated that the right of freedom of opinion and expression was widely respected and realized in the country; however, in the case of Santiago del Estero Province, he expressed deep concern. He urged provincial authorities to find a peaceful settlement to the crisis in which the Government withheld advertising to cripple *El Liberal*, which had become the target of abuse of executive power.

There was no additional information with respect to reports in 2000 of wiretaps and threats against *El Liberal* and threats against Cordoba's *La Voz del Interior*, which had published information about wiretapping and other abuses attributed to the provincial government of Santiago del Estero.

Suspects on trial for the 1999 killing of Ricardo Gangeme in Chubut Province, which some observers believed was related to his writing, were acquitted in a trial that began in August.

The law provides for academic freedom, and the Government did not restrict this right in practice.

b. Freedom of Peaceful Assembly and Association.—The Constitution and the law provide for freedom of assembly, and the Government generally respected this right in practice. There were numerous peaceful protests and demonstrations throughout the country during the year (*see* Section 6.a.). However, on a number of occasions, the security forces used rubber bullets, tear gas, and water cannons to disperse unruly demonstrators, resulting in several deaths and a number of injuries (*see* Section 1.a.).

Protest marches, roadblocks, and other demonstrations occurred frequently during the year. Often the protests were related to restrictions on withdrawals from banks and conversion of dollar deposits to pesos, cuts in or late payment of public employees' wages, loss of employment, distribution of public benefit programs, and deterioration of public services. Roadblocks usually carried out by organized groups of the unemployed were common. The vast majority of these protests were carried out peacefully; however, in some cases, there was violence, and clashes occurred between demonstrators and public security forces, which generally used tear gas and rubber bullets to disperse protesters. Demonstrators sometimes were detained, often leading to charges that the Government, whether national or provincial, was "criminalizing" protests.

On June 26, in the Buenos Aires suburb of Avellaneda, a group of several hundred club-wielding demonstrators clashed with provincial police and Naval Prefecture forces. While initially using tear gas and rubber bullets, police forces pursuing demonstrators subsequently used force that resulted in two deaths and numerous injuries. Autopsies on demonstrators Maximiliano Kosteki and Dario Santillan found they were killed by metal shot. Press photos showed police pointing shotguns toward Santillan. In the same clash, it was reported that more than 100 persons were injured by such means as rubber and lead shot and that there were dozens of brief detentions and a search without a warrant of the nearby United Left/Communist Party headquarters (where protesters had taken refuge). An investigation began immediately, and the provincial governor replaced the Security Minister and police officials. A number of police were detained, including the police chief in charge of the operation (*see* Section 1.a.).

The Constitution and the law provide for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution states that the Federal government "sustains the apostolic Roman Catholic faith," and the Government provides the Catholic Church with a variety of subsidies. Other religious faiths were practiced freely.

The Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship is responsible for conducting the Government's relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and to obtain tax exempt status must register with the Secretariat, and must report periodically to the Secretariat in order to maintain their status.

Acts of discrimination and violence against religious minorities, particularly the Jewish and Muslim communities continued to be reported. Combating this and other forms of intolerance was a priority for the National Institute against Discrimination, Xenophobia, and Racism (INADI). The Government continued to support a public dialog to highlight past discrimination and to encourage improved religious tolerance. There were a number of reports of anti-Semitic acts and of threats against Jewish organizations and individuals during the year. The most frequent incidents included the appearance of anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country.

On July 14, some 150 tombs in an Islamic cemetery in the La Matanza district of Buenos Aires Province were attacked. Tombstones were broken and graves disturbed, but no offensive messages or graffiti were found. INADI and predominantly Jewish groups, acting in solidarity with the Islamic community, immediately issued statements repudiating the attacks as discriminatory. The La Matanza prosecutor was charged with the investigation.

On November 8, an anti-tank grenade was found outside a Jewish club in La Plata, Buenos Aires Province. The grenade, which was not equipped to explode, was found in a box along with a note bearing anti-Semitic slogans and a drawing of a swastika.

There was no progress in the investigations into the January 2001 attack on the Shi'a Muslim mosque in Buenos Aires, the bomb threat reportedly received 2 days later by the San Justo Islamic Cultural Center in Buenos Aires, or the April 2001 letter bomb which injured musician Alberto Merenson.

The Government began a Holocaust Education Project, under the auspices of the International Holocaust Education Task Force, which the country joined in June. The Ministry of Education worked to include Holocaust education in primary and secondary schools, and schools now commemorate a national day of tolerance on April 19. The Government renewed the charter of the National Commission for Clarification of Nazi Activities (CEANA), enabling CEANA to continue its investigations and to cooperate in Holocaust education.

The investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires came to a virtual standstill. However, the investigation to find those directly responsible for the 1994 bombing of the AMIA Jewish community center (in which 85 persons died) continued during the year.

The public trial of 20 individuals (including 15 former Buenos Aires Province police officers) accused of providing the vehicle used in the 1994 bombing of the AMIA Jewish community center continued. Since the trial began in September 2001, testimony of over 800 witnesses focussed largely on carefully establishing the facts of the case, particularly the use of a van filled with explosives to carry out the attack (see Section 1.a.).

In May the third suspect accused in the 1995 beating of a youth believed to be Jewish surrendered to authorities after failing to appear in the December 2001 trial in which the other two defendants were convicted. In August he was released from detention, and a trial date had not been set by year's end.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution and laws provide for these rights, and the Government generally respected them in practice. Protesters frequently blocked roads and streets (see Sections 2.b. and 6.a.).

A committee composed of representatives of the Ministries of Justice, Foreign Affairs, and the Interior determines grants of refugee status, using the criteria of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A representative of the U.N. High Commissioner for Refugees may participate in committee hearings, but may not vote. The Government granted refugee status to numerous persons and accepted refugees for resettlement. As of September, 1,500 persons were awaiting decisions on their refugee status requests. During the year, the country received 360 new requests for refugee status from persons from 23 countries, compared with 861 requests received in 2001, 1,320 in 2000, and 1,456 in 1999. The country also implemented a cooperation program with the UNHCR, enabling them to more efficiently examine the large influx of cases in 1999 and 2000. The issue of the provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. In 1999 voters elected Fernando de la Rúa, leader of the "Alianza" coalition of opposition parties, as president. In national midterm legislative elections in October 2001, the opposition Justicialist party maintained its absolute majority in the Senate and replaced the Alianza as the largest party in the Lower House. This was the first time that the voters directly elected the Senate; previously provincial legislatures elected senators.

On December 20, 2001, after protests, street violence, looting, and deadly confrontations between security forces and demonstrators, President De la Rúa resigned. After several short-term interim presidencies, including one lasting 1 week headed by former San Luis Governor Adolfo Rodríguez Saa, the legislature selected former Buenos Aires provincial governor Eduardo Duhalde to serve out the remainder of the De la Rúa term. In June Duhalde called for presidential elections to be moved forward to allow a new President to take office by May 25, 2003.

The Constitution calls for political parties to implement measures to increase women's representation in elective office. Decrees were issued in 1993 and 2000 effectively resulting in an increase in the representation of women in the national legislature. In the lower chamber, 77 of 257 members were women. In the Senate, there were 24 women among the 72 members. Three cabinet members were women, the Minister of Labor, Employment and Social Security, the Minister of Education, and the Minister of Social Development. There were no female Supreme Court justices, but women were prominent in other levels of the judiciary.

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 was usually cooperative, although not always responsive to their views.

Among the most active human rights organizations were the Grandmothers of Plaza de Mayo, the Mothers of Plaza de Mayo Founding Line, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, and New Rights of Man.

There were credible allegations of efforts by members of security forces and others to intimidate the judiciary, witnesses, and local human rights organizations (see Section 1.e.). For example, in June Daniel Chocobar, a witness to alleged prison guard abuses was killed in prison apparently by another prisoner, but prison official involvement was plausible (see Section 1.a.). On September 20, unknown assailants shot into the home of Estela de Carlotto, a well-known leader of the Grandmothers of the Plaza de Mayo. She was not injured in the attack, and the provincial government immediately began an investigation into the attack.

Within the Federal government, the Ministry of Justice, Security and Human Rights' Under Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Directorate General of Human Rights of the Ministry of Foreign Relations, International Trade, and Worship. The Foreign Ministry passes information on human rights issues raised internationally to the Ministry of Justice, which in turn, coordinates with a network of human rights representatives in the provinces. The Foreign Ministry and Ministry of Justice, Security and Human Rights cooperated with international human rights entities and provided helpful follow up information and assistance on key cases.

Representatives of the Inter-American Commission on Human Rights (IACHR) visited the country from July 29 to August 6. The IACHR representatives noted government efforts to solve amicably pending human rights cases, the deep impact of the social and economic crisis on human rights, the serious lack of confidence in the judiciary, and the need for a well functioning judiciary as a base for the protection of human rights. They also took note of public concern about deterioration in public security and of numerous complaints related to abuses by public security forces. The IACHR representatives highlighted overcrowding and consequent problems in jails and prisons and encouraged measures adopted by the Buenos Aires provincial government to improve protection of fundamental rights in the province.

A 2000 law calls for the human rights commissions of both chambers to write an annual report on human rights in the country beginning in 2001; the two committees had begun work but had not issued a report by year's end.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and law provide for equal treatment for all citizens, and the law provides for prison terms of up to 3 years for discrimination based on race, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

INADI is mandated to identify and combat all forms of intolerance in the country. INADI investigates violations of the antidiscrimination law and carries out research and educational programs to promote social and cultural pluralism and combat discriminatory attitudes. After several years of institutional difficulties, the law establishing INADI was amended to provide INADI with greater independence and a budget of its own.

A 2000 Amnesty International (AI) report expressed concern over reports that police targeted, tortured, and harassed gays, lesbians, and bisexuals (*see* Section 1.c.). The report included information regarding the 2000 death in police custody of a transvestite whose body showed signs of torture (*see* Section 1.a.). AI noted that police bylaws and provincial codes of misdemeanors allow police to detain or sanction members of sexual minorities for actions that do not constitute a criminal offense.

Women.—Domestic violence and sexual harassment against women were recognized as serious social problems; however, the lack of official statistics on these crimes made accurate measure of the problems difficult. The Government, through the National Council of Women, implemented a new database system to standardize statistics on domestic violence, permit a more accurate evaluation of the scope of the problem, and promote better public policy. Although no national statistics on domestic violence were available, there were 658 complaints of sexual abuse filed in Buenos Aires in 2001, and experts estimated that only 10 to 20 percent of such incidents were reported.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station; the level of injury inflicted determines the punishment under the civil and criminal codes. In addition, the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the home or place of work of the victim and temporarily to decide issues of family support, child custody, and arrangements for communication with children.

Reliable statistics as to the extent of rape were not available. The crime of rape falls under the Law of Crimes Against Sexual Integrity. Marital rape and acquaintance rape are offenses under the law, if force is involved, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presented problems. The penalties for rape vary from 6 months to 20 years and depend on the nature of the relationship between the rapist and victim and the physical and mental harm inflicted.

Public and private institutions offered prevention programs and provide support and treatment for women who had been abused, but transitory housing was almost nonexistent. The Buenos Aires municipal government operated a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence, but few other shelters exist. NGOs working in the area of women's rights stressed that women often did not have a full understanding of their rights or of what actions could be considered punishable offenses.

Sexual harassment was a serious problem. In 2001 Buenos Aires Province adopted the first law outlawing sexual harassment in provincial agencies. However, women lacked information about what constitutes sexual harassment.

Prostitution is illegal but did occur. Some women have been trafficked to the country for purposes of prostitution in the past (*see* Section 6.f.).

Despite legal prohibitions, women encountered economic discrimination and occupied a disproportionate number of lower paying jobs. Often women were paid less than men for equivalent work, although this is prohibited explicitly by law. Working women also were represented disproportionately in the informal sector, where they did not have the work-related economic and social benefits enjoyed by registered workers.

The National Council of Women, an interagency organization under the authority of the President's Cabinet Chief, carried out programs to promote equal opportunity for women in the social, political, and economic arenas. The Special Agency for Women's Issues, a unit in the Ministry of Foreign Affairs, participated in studying domestic law standards so as to adapt them to the rules of international law. This Agency and the National Council of Women, together with the Labor Ministry and

union and business organizations, formed the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

Children.—The Government voiced strong commitment to issues of children's rights and welfare, including education and health; however, austere federal and provincial budgets meant that programs in these areas received insufficient funding. The Ministry of Justice, Security, and Human Rights' Under Secretariat for Human and Social Rights worked with UNICEF and other international agencies to promote children's rights.

The law requires that all children receive a minimum of 9 years of schooling, beginning at 6 years of age. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling is unavailable in some rural areas. A 1999 study by the National Council for Childhood, Adolescence and the Family—an independent government organization reporting to the Ministry of Social Development and Environment—stated that approximately 99 percent of all children of primary school age attended schools, with roughly the same percentages for both genders. There were numerous federal and provincial health care programs for children, although not all children had access to them.

NGOs and church sources indicated that child abuse and prostitution increased, although no corroborating statistics were available. A 2000 UNICEF report stated that sexual exploitation of children was widespread due to police inefficiency and lack of judicial intervention. The children involved usually worked in the same institutions as adults. The National Council for Childhood, Adolescence, and the Family has developed an Action Plan, together with the Attorney General, the Ministry of Justice, Security and Human Rights, the National Council of Women, and UNICEF, on the elimination of child prostitution.

The country's economic crisis disproportionately affected children. Almost 3 out of 4 children under age 12 lived under the official poverty line. Nearly 40 percent of children were considered indigent, as their families did not earn enough to meet their basic food necessities. According to the Center for Studies on Infant Nutrition, malnutrition increased from 11 percent to 20 percent between 2001 and 2002. The public health system did not keep pace with the increased risks. The press reported over 60 deaths of children attributed to malnutrition, and the health minister estimated that some 11,000 children in Argentina die each year from such preventable causes. Schools often had meal programs, and elementary school attendance reportedly remained high even in poor communities. The Government's subsidy program for unemployed heads of households assisted more than 2 million people by year's end. An emergency feeding program was also implemented nationwide. Many school meal programs were kept open over the summer break in order to help ameliorate the situation.

There was a report of an isolated case of two Bolivian children trafficked to the country for labor (see Section 6.f.).

UNICEF and the National Council for Childhood, Adolescence and the Family were concerned about existing laws for judicial proceedings regarding minors. Children under the age of 16 have immunity. However, under the Law of Guardianship, those accused of a crime who are between the ages of 16 and 18 are taken before a judge and assumed guilty of the crime, without the benefit of either an oral or written trial. Punishment is then determined based not on the severity of the crime under the law but on the financial ability of the guardians to provide treatment and rehabilitation. Thus, minors who commit serious crimes but come from wealthier families may be released to the guardians, while minors from impoverished backgrounds may be sent to juvenile detention centers for lesser crimes.

Persons with Disabilities.—The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services, and mandates access to buildings for persons with disabilities. There was some progress in these areas. The National Advisory Commission on the Integration of People with Disabilities (a governmental office), the national ombudsman, and numerous NGOs defended the rights of persons with disabilities and helped them to find employment.

A 1994 law mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Street curbs, commuter train stations, and some buildings in Buenos Aires have been modified to accommodate wheelchairs, but many public buildings and lavatories remained inaccessible to persons with disabilities. The Buenos Aires subway system installed a small number of escalators and four elevators for one of the city's five subway lines; however, the other four subway lines remained inaccessible to many persons with disabilities.

A 2000 law mandated greater accessibility to buses and trains for persons with disabilities such that 1 of 50 buses must be equipped with a lowered floor or wheelchair lift. However, NGO groups claimed that these buses were not maintained, that these bus services were not regular, and that bus drivers were not given special training to deal with the needs of persons with disabilities.

NGOs and special interest groups claimed accessibility laws often were not respected in practice. The law does not define the term "accessible" nor does it provide deadlines or penalties for noncompliance. The national law is not mandatory for the provinces, and there are no penalties for provincial noncompliance. Accessibility laws have not been implemented in local building codes, and many new buildings were not accessible to persons with disabilities. Grievances filed about the failure to comply with these laws may result in a fine, but usually no action was taken to make the building accessible to persons with disabilities.

The National Ombudsman's 2001 report criticized the Government for insufficient funding and failure to enforce laws regarding discrimination and accessibility for persons with disabilities, such as ensuring that government buildings provide space for persons with disabilities to operate small businesses and that at least 4 percent of the work force in government offices be comprised of persons with disabilities. A newly enacted law put into effect at the end of the year provides for the Ministry of Labor and National Advisory Commission for the Integration of People with Disabilities jointly to oversee fulfillment of the 4-percent national government employment quota.

Indigenous Persons.—The Constitution recognizes the ethnic and cultural identities of indigenous people and states that Congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. However, in practice, indigenous people did not participate in the management of their lands or natural resources. The National Institute of Indigenous Affairs (INAI) is the Government agency responsible for implementing these provisions. The Indigenous Advisory Council has not yet been established as provided in the law creating INAI.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—were believed to represent less than 5 percent of the national population. The INAI estimated that there were approximately 700,000 indigenous persons, most of whom resided in rural areas. However, the nongovernmental Indigenous Association of the Argentine Republic estimated the indigenous population at 1.5 million persons. Other demographers in recent years estimated there were at most 450,000 indigenous persons. The 2001 national census collected information about indigenous identity for the first time; however, results of the information about indigenous identity had not been released at year's end.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous persons have higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people continued to be hampered by a lack of trained teachers.

Since 1994 the Government has restored approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies, particularly over questions of natural resource extraction and road construction.

National/Racial/Ethnic Minorities.—Racist incidents were underreported, and racism often was denied as a problem; however, members of racial minorities, such as those of African descent, reported frequent cases of verbal insults and, in some cases, physical assaults on the streets of Buenos Aires.

Individuals of indigenous descent from the northern part of the country, as well as from Bolivia, Peru, and other Latin American countries, reportedly were subjected frequently to verbal insults because of their dark skin. Accounts by those who have been subject to incidents of racial prejudice indicated that this was a more common problem than was reported widely. There were several incidents of apparent racial discrimination against Afro-Americans, including two serious cases involving unprovoked beatings in public establishments by private security personnel. Members of minority groups reported avoiding buses and other crowded public facilities out of fear of being subjected to racial harassment.

In March 2001, the U.N. Committee on the Elimination of Racial Discrimination expressed concern regarding reports throughout the country of police brutality committed on a variety of pretexts on grounds of race, color, or ethnic origin.

In January 2001, a Bolivian woman, Marcelina Meneses, and her 10-month-old Argentine son were insulted, then were pushed or fell from a suburban train. Both

were killed. There was no reported progress in the investigation despite efforts by the Bolivian immigrant community to locate witnesses.

There was no further information on the investigation into the 2000 racial discrimination case of a woman of African descent, Elisa Souza de Melgarejo, and her grandson, who were assaulted verbally in a supermarket.

In 2001 the Argentine Soccer Association established rules to stop or cancel games when any ethnic incidents or taunting erupts, such as anti-Semitic and anti-immigrant incidents that occurred at soccer matches in the past several years. Such incidents diminished after the rules were implemented.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to form “free and democratic labor unions, recognized by simple inscription in a special register,” and unions exercise this right. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force was organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally have supported the Justicialist Party. Most unions are affiliated with one of the two factions of the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers’ Central, also is recognized legally.

Labor groups not affiliated with the CGT continued to argue that the Professional Associations Law provision for legal recognition of only one union per sector conflict with International Labor Organization (ILO) Convention 87. The ILO’s Committee of Experts, in a document released during the year, noted with satisfaction various measures the Government had taken in 2001 to provide trade union associations merely registered with rights and benefits similar to those of unions legally recognized. However, it indicated that it would address all the matters raised earlier in its next session.

The law prohibits antiunion practices, and the Government generally enforced this prohibition in practice.

Unions are free to join international confederations without government restrictions; many unions also were active in international trade secretariats.

b. The Right to Organize and Bargain Collectively.—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration. The Ministry of Labor, Employment, and Social Security ratifies collective bargaining agreements, which cover roughly three-fourths of the formally employed work force. According to the ILO, the ratification process impedes free collective bargaining because the Ministry not only considers whether a collective labor agreement contains clauses violating public order standards, but also considers whether the agreement complies with productivity, investment, technology, and vocational training criteria. However, there were no known cases during the year when the Government refused to approve any collective agreements under the above criteria.

The 2000 Labor Reform Law allows collective bargaining on a regional, provincial, or company basis. A conciliation service, which began operation in 1997, has helped reduce the number of labor disputes in courts. In April and September, foreign experts conducted training sessions in mediation for labor professionals, particularly government officials.

The Constitution provides for the right to strike, and this right was observed in practice. There were no national general strikes by the largest union confederations, but there were numerous smaller scale strikes. These strikes generally were brief protests related to sector specific problems or were carried out by public sector employees, including teachers, against the economic model or specific government austerity measures.

Groups of unemployed and underemployed workers, retirees, and unions around the country frequently demonstrated and used roadblocks as acts of protest. Hundreds of incidents took place during the year. Many of the roadblocks were carried out by groups of impoverished persons demanding retention or restoration of jobs, more federal and provincial unemployment payments or job subsidies. The roadblocks usually were organized by political or labor leaders. While most roadblocks were resolved by negotiated settlements, sometimes including promises of extended or expanded unemployment programs, some ended in confrontations between the police and demonstrators. Two persons were killed in Buenos Aires Province in association with such a confrontation (*see* Sections 1.a., 1.c., and 2.b.).

There are three functioning export processing zones with many others legally registered but not active. The primary commercial advantages of these zones are related to customs and duty exemptions. The same labor laws apply within these zones as in all other parts of the country.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children. During the year, there was only one report of workers found in conditions of forced labor with poor pay and working conditions. In December the press reported that police arrested two Bolivians who owned a garment factory in the city of Buenos Aires where 15 young Bolivians, including two minors, were found working in conditions constituting “servitude.”

d. Status of Child Labor Practices and Minimum Age for Employment.—The education law requires that children attend school until the age of 15, effectively prohibiting formal employment of children under 15; however, other laws are inconsistent and child labor was a problem. The labor laws still allow children to work at the age of 14, and in rare cases the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 15 and 16 may work in a limited number of job categories, but not more than 6 hours a day or 35 hours a week. The penalty for employing underage workers ranges from \$278 to \$1,388 (1,000 to 5,000 pesos) for each child employed.

In May the Ministry of Labor published, with IPEC support, a Diagnostic Synthesis on Child Labor that estimated the number of children working in 2000 at 483,000—a 91.6 percent increase in 5 years. Relying on a broader definition, which includes children working in their homes, the Diagnostic estimates that there were 1.5 million child laborers.

In June a UNICEF education consultant reportedly stated that in the large urban areas 6 of every 10 adolescents (ages 13–17) worked rather than studied. Such considerable and continuing growth in child labor was considered credible given the country’s economic distress.

In 2000 the President formally established a National Commission for the Eradication of Child Labor to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGOs. The Commission, whose activities are financed largely by IPEC, signed several agreements with provinces to cooperate in addressing child labor problems and conducted training activities.

e. Acceptable Conditions of Work.—The monthly national minimum wage was \$54 (200 pesos), which was not sufficient to provide a decent standard of living for a worker and family. It is determined by a tripartite committee and has not changed since 1993. However, few workers in the formal sector made the minimum wage; according to a prominent labor expert, the estimated average income of a laborer was approximately \$150 (550 pesos) per month. Those employed full time in the informal sector were estimated to make closer to \$100 (370 pesos) per month.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable conditions of work are not enforced universally, particularly for workers in the informal sector who constituted an estimated 40 percent of the work force prior to the current economic crisis and likely an even larger share of the work force during the year.

Employers are required by law to insure their employees against accidents at the workplace, and when traveling to and from work. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nonetheless, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

f. Trafficking in Persons.—No laws specifically address trafficking in persons; however, other laws may be used to prosecute crimes associated with trafficking, such as kidnaping, forced labor, use of false documents, and prostitution. Laws against child abuse provide penalties for trafficking children for purposes of prostitution, and other laws prohibit alien smuggling, indentured servitude, and similar abuses. There were credible reports that women brought from the Dominican Republic to work in Argentina in the mid to late 1990s were coerced into prostitution. An investigation encompassing nearly a dozen such women was underway at year’s end, and the International Organization of Migration approved the return of 51 Dominicans during the year. There also was a report of 15 Bolivians, including 2 children, who may have been trafficked to the country.

While there were no government programs specifically to assist trafficking victims, the Office for Assistance to Migrants can provide help, and the Office for Assistance to the Victims of Crime provided practical, legal, and psychological support

to several Dominican victims of trafficking who are pursuing cases in the legal system. The Government seldom detained immigrants on immigration-related charges.

BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the Government after May elections that observers found to be generally free and fair. The judiciary was generally independent.

The national police force maintains internal security, and the small Royal Bahamas Defence Force is responsible for external security and some minor domestic security functions such as guarding foreign embassies and ambassadors; both answer to civilian authority. There continued to be reports that the police occasionally committed human rights abuses.

The country has a developing market-based economy that depends primarily on tourism, which accounts for 60 percent of the gross domestic product. The country's population is approximately 305,000. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While many citizens enjoyed relatively high income levels, there was considerable underemployment and poverty. The unemployment rate was estimated at 9.1 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remained harsh. The police occasionally used arbitrary arrest and detention. Lengthy pretrial detention and delays in trials were problems. Violence and discrimination against women and violence against children also were problems. Discrimination against persons with disabilities and persons of Haitian descent persisted. Bahamas was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat or otherwise abused suspects. Many of the charges of abuse involved beatings to extract confessions. There were no formal complaints involving beatings to extract confessions filed during the year; however, in April a Nassau man alleged that two police officers pulled him from his home and beat him without provocation. The victim displayed visible bruises to the media. At year's end, the matter was under active investigation by the police complaints unit. Human rights monitors and members of the public continued to express concern over such instances of police abuse of criminal suspects. Police officials, while denying systematic or chronic abuses, acknowledged that police on occasion abused their authority, and pledged to address any wrongdoing by police officers. According to officials, defendants' rights were protected by trial judges (*see* Section 1.e.).

The Police Complaints and Corruption Branch, which reports directly to the Deputy Commissioner of Police, was responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the Attorney General. Local human rights observers doubted the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believed that many incidents of improper police behavior were unreported. An independent civilian was supposed to be appointed to oversee the complaints and corruption branch; however, at year's end the Government had not selected anyone for this position. This civilian would report directly to the Minister of National Security and consult with the Police Commissioner. Police officials insisted that their investigations were fair and thorough. There were 398 complaints against the police during the year, compared with 428 in 2001. Of these 398 cases, 170 remained under investigation at year's end, and 88 resulted in disciplinary ac-

tion. Examples of disciplinary action included suspension without pay, fines, and dismissal. No officers were dismissed during the year because of alleged human rights abuses. Police officials believed that continuing turnover in personnel was a contributing factor in disciplinary cases. There were approximately 2,200 officers.

Corporal punishment is permitted by law with some restrictions; however, it has not been used for several years. For example, caning was permitted at police stations but only if performed by a sergeant or higher ranking official. Cat-o'-nine-tails were allowed at prisons but have not been used for several years.

Conditions at Fox Hill, the only prison, continued to improve but remained harsh. Overcrowding was a major problem. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, held more than 700 of the prison's total of more than 1,400 inmates. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in their cells 23 hours per day. With the opening of a new maximum-security wing in August, prison officials hoped to alleviate overcrowding and separate prisoners being held "on remand" (detention pending trial or further court action) from convicted prisoners. All inmates were screened for infectious diseases, and prison officials estimated that approximately 7 percent of the incoming prison population was infected with the HIV virus. There were occasional escapes from Fox Hill prison (see Section 1.d.).

Organizations providing aid, counseling services, and religious instruction had regular access to inmates. The Government provided limited funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials instituted some technical and vocational programs, and correctional officers were undergoing instruction to become certified trainers, although the process was hindered by resource constraints. Modern training facilities are equipped with new computers, and the prison also offered some educational and literacy programs for prisoners.

Women were held separately from male prisoners. The prison's female population was around 40 inmates, considerably less than the female unit's full capacity of 200. Conditions for women were less severe, and the facilities had running water.

The new maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. Offenders younger than that, along with children made wards of the court by their parents because of "uncontrollable behavior," were housed at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls.

Domestic and international human rights groups were able to visit the prison during the year.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrested and detained persons. In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. The law provides that a suspect must be charged within 72 hours of arrest. The Government generally respected the right to a judicial determination of the legality of arrests.

Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 72 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Arrested persons may hire an attorney of their choice, and the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believed that this lack of representation risked hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there was no statistical evidence to indicate that this was more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tended not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities considered foreign offenders more likely to flee if released on bail. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continued to complain of excessive pretrial detention (see Section 1.e.). The Constitution mandates that suspects can be held for a "reasonable period of time" before trial, giving considerable flexibility. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements could be made

for them to leave the country, or they obtain legal status. In the detention center, which can hold up to 600 detainees, women and men were housed separately. The highest occupancy at any one time was approximately 350. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. In addition to Haitians and Cubans, immigration authorities also housed illegal migrants from China, Ecuador, Venezuela, India, and Nigeria. Average length of detention varied dramatically by nationality and availability of funds to pay for repatriation. Cuban immigrants tended to have longer stays that reached 7 months and averaged 3.5 months. Many detainees were provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally were deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison where they may remain for weeks or months after serving their sentences, pending deportation.

Exile is illegal and was not practiced during the year.

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

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal; the Privy Council in London is the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judicial system had a large backlog of cases, and delays reportedly lasted as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system and published a report in 1999 proposing modifications in the system to facilitate case flow management, including the disposition of cases within 6 months of initial filing.

Despite these measures to improve efficiency, complaints persisted of excessive pretrial detention, outdated record keeping, delayed justice for victims, and a failure to update new laws in the books. Some judges have been brought in from abroad; while familiar with English common law, they lacked experience regarding local law and procedures. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

In 1999 the final appeals court, the Privy Council, ruled that death-row inmates appealing their sentences must be given the chance to be heard by bodies such as the U.N. Human Rights Committee (UNHRC) and the Inter-American Commission on Human Rights (IACHR). Death-row inmates have petitioned the UNHRC or IACHR, but the Government, while it accepts the Privy Council's ruling, has not agreed that it will be bound by UNHRC or IACHR recommendations.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence, but a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation exists. Such an official also may authorize the search of a person (which extends to the vehicle in which the person is traveling) without a court order, should probable cause exist to suspect drug possession.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and press, and the Government generally respected this right in practice.

Three daily and several weekly newspapers, all privately owned, expressed a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines were readily available.

There is a government-run radio station and five privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas, presented a variety of views, although opposition politicians claimed, with some justification, that their views did not receive as extensive coverage as those of the Government.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally grant such permits.

The law permits private associations.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There was no separation of church and State in the country, and the Constitution explicitly calls for respect for Christian values; however, there were no allegations of violations of religious freedom during the year.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

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

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There was no legislation governing the processing of asylum seekers, and applications for political asylum were supposed to be adjudicated on a case-by-case basis at the cabinet level. Trained immigration officials screened asylum applicants, and the UNHCR reviewed the interview records and offered advice on certain cases. Local and international human rights observers criticized the Government for failing to screen potential asylum applicants adequately. These organizations claimed that some Haitians with a legitimate fear of persecution were repatriated without having the opportunity to make a claim for asylum. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement, and on December 20, the Bahamian and Haitian governments signed an agreement to share repatriation costs of illegal Haitian immigrants. They are all interviewed by immigration officials and given the opportunity to claim asylum. The Government signed a repatriation agreement with Cuba in 1998. The Royal Bahamian Defence Force brings all migrants intercepted at sea back to port.

The Department of Immigration reported that 5,462 Haitian, 68 Cuban, and 74 Dominican Republic citizens had been repatriated, out of a total of 6,368 repatriations. A total of 54 persons requested asylum during the year, and of these, 2 were recommended for refugee status.

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

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

The country is a constitutional, parliamentary democracy with general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote. Voting is by secret ballot. The two principal political parties are the ruling Progressive Liberal Party and the opposition Free National Movement (FNM). In May the PLP won 30 of 40 seats in the House of Assembly and formed the new government under Perry Christie. The FNM won only six seats and independents won four. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There were no legal impediments to participation by women in government and politics. The 40-seat House of Assembly has 8 elected women members and 7 appointed women Senators, including the President of the Senate. Cynthia Pratt was the country's first woman Deputy Prime Minister and first woman Minister of National Security. Women also headed the Ministry of Transportation and Aviation, the Ministry of Financial Services and Investment, and the Ministry of Social Services and Development.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were very cooperative and responsive to their views.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Government generally respected in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contained certain provisions that discriminated against women.

Women.—Violence against women continued to be a serious, widespread problem. Government crime statistics did not separate domestic violence from other incidents of violence. The Government operated a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who were on call to respond in the event of a crisis. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. In November 2000, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which exclusively addresses family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. Rape, including spousal rape, was a crime. Prosecutions and convictions on rape charges were common and the maximum penalty frequently was applied. However, advocates for women's rights saw a need to improve the effectiveness of enforcement of the court's orders. They cited a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. The police recognized domestic violence as a high priority and provided specialized training to several hundred officers in mandatory classes for all incoming officers as well as in ongoing training. Women's rights activists noted the new training the police had received and believed that it was a positive development.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favored men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continued to push for an amendment to the Constitution and related laws to redress this situation. In 2001 Parliament passed legislation to amend the Constitution and eliminate this discrimination; however, the amendment (along with four other proposed constitutional changes) was defeated soundly in a referendum after the PLP and much of the local religious community opposed it. The Government promised to consult with the citizens before again moving forward with this legislation, but no firm timetable had been established to do so.

Women participated fully in society and were well represented in the business and professional sectors.

Children.—The Government claimed child welfare and education are a priority but they lacked sufficient funding. The public schools, in particular, lacked basic educational materials, and facilities were overcrowded and substandard. Public education was compulsory for children through the age of 16, and most children attended school until this age.

Both the Government and civic organizations conducted intensive public education programs aimed at the problem of child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. In 2001 there were 101 reports of sexual abuse of minors, 13 reports of incest, 18 reports of physical abuse, 83 reports of child neglect, and 9 cases of child abandonment. More recent statistics were unavailable.

The law requires that all persons who have contact with a child they believe to be abused sexually report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurred quite frequently. The police referred reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against perpetrators. The Department may remove children from abusive situations if the court deems it necessary. The highly publicized death of a 4-year-old boy, and subsequent arrest of his father, focused renewed attention on this issue.

Persons with Disabilities.—Although the 1973 National Building Code mandates certain accommodations for persons with physical disabilities in new public build-

ings, the authorities rarely enforced this requirement. There was no overarching disability act. There were housing units in Nassau designed specifically for persons with disabilities, but very few buildings and public facilities were accessible to persons with disabilities. The code also failed to mandate accommodations in new private buildings, which often lacked accessibility as well. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward their need for training and equal opportunity. They noted that there was no general legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance worked with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations (NGOs) that offered services for persons with disabilities, to provide a coordinated public and private sector approach to the needs of persons with disabilities. A mix of government and private residential and non-residential institutions provided a range of education, training, counseling, and job placement services for adults and children with both physical and mental disabilities.

National/Racial/Ethnic Minorities.—Unofficial estimates suggest that between 20 and 25 percent of the population are Haitians or citizens of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens resided in the country legally, some observers believed that similarly large numbers were in the country illegally. Haitian children were granted access to education and social services. Children born of non-Bahamian parents or to a Bahamian mother with a non-Bahamian father in the Bahamas do not automatically acquire citizenship.

Although Haitians and Bahamians of Haitian descent generally were well integrated into society, interethnic tensions and inequities persisted. Some members of the Haitian community complained of discrimination in the job market, and resentment of continued Haitian immigration was widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians were scarce. Some leaders of the Haitian community approved of the Government's approach to the repatriation of illegal migrants and pointed to the high number of ethnic Haitians in the public service.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides labor unions with the right of free assembly and association, and the Government generally respected these rights in practice. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Workers exercised the right of association extensively, with almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonging to unions.

Three major umbrella labor organizations—the National Workers Council of Trade Unions and Associations, the Trade Union Congress, and the National Congress of Trade Unions—along with individual labor unions, all functioned independently of government or political party control.

The Constitution and the Industrial Relations Act prohibit antiunion discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforced labor laws and regulations uniformly throughout the country.

In order to resolve trade disputes more quickly, in 1996 Parliament amended the Industrial Relations Act to establish an industrial tribunal. According to the act, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and can only be appealed in court on a strict question of law. Some employers complained that the industrial tribunal was biased unfairly in favor of employees.

All labor unions have the right to maintain affiliations with international trade union organizations.

b. The Right to Organize and Bargain Collectively.—Workers freely exercised their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiated wage rates without government interference.

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Workers have the right to strike, and it was generally respected in practice; however, the Government has the right to intervene in the national interest to assure delivery of essential services. Unions threatened several work stoppages against both public and private employers during the year.

Freeport was a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates asserted that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which owned the harbor, airport, and many major hotels in Freeport, to discourage unions.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor by all persons, including children, and such labor did not exist in practice.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There was no legal minimum age for employment in other sectors, and some children worked part time in light industry and service jobs. On June 14, the Government ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor.

e. Acceptable Conditions of Work.—The Minimum Wage Act, passed in December 2001, established a minimum wage for the private sector of \$3.50 (B\$3.50) an hour or \$150 (B\$150) a week for the first time. In 2000 the Government established a minimum wage of \$4.66 (B\$4.66) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, these minimum wages did not provide more than a subsistence living for a worker and family. The act reduces the regular workweek from 48 hours to 40 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor was responsible for enforcing labor laws and has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints; however, inspections occurred infrequently. The Ministry normally announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative employment for employees injured on the job but still able to work. The law does not provide a right for workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons; however, the Penal Code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked to, from, within, or through the country, and the Government did not prosecute any cases against traffickers.

BARBADOS

Barbados is a constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. The Queen was head of state and was represented by an appointed Governor General. Prime Minister Owen Arthur of the Barbados Labour Party (BLP) was the head of government and governed with an appointed cabinet. The judiciary was generally independent.

The Royal Barbados Police Force was charged with maintaining public order. The small Barbados Defense Force (BDF) was responsible for national security and can be employed to maintain public order in times of crisis, emergency, or other specific need; the BDF supported the police during the year. Police occasionally committed some human rights abuses.

The free market economy was based on tourism, services, light manufacturing, and agriculture. The country's population was approximately 275,000. The Government was the single largest employer, employing about 21 percent of the work force. The economy contracted as real growth declined by 0.6 percent, compared to a drop of 2.8 percent in 2001. Tourism declined by 2.8 percent, compared to a drop of 5.9 percent in 2001. Crop damage resulting from tropical storm Lili, which hit the is-

land in September, contributed to losses in the agricultural sector. The unemployment rate at the end of September was 10.3 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were occasional allegations of excessive use of force by police. Societal violence against women and children were problems. Barbados was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution specifically prohibits torture and inhuman or degrading punishment or other treatment. The majority of complaints against the police alleged unprofessional conduct and beating or assault.

In March newspapers reported that four policemen allegedly beat Colin Gaul, a Guyana-born Swedish citizen, and forcibly removed him from a flight bound for Guyana after the captain of the flight refused to take off with him on board. The press reported that Gaul, who was traveling with his 3-year-old son, had complained loudly at having to walk from the back of the aircraft to his seat near the front of the aircraft, while other passengers with children seated near the front had been allowed to board from the front of the plane. The airline told the press that Gaul had been abusive on an earlier flight and cited security concerns as a reason to remove him. After Gaul refused requests by security guards and police to leave the plane, the policemen allegedly grabbed him and punched him in the head with bare fists and forced him off the plane. According to press reports, one of the passengers who witnessed the incident gave a statement to the Guyana Human Rights Association. The police conducted an investigation, but no results were made public.

At year's end, assault charges filed by students at the University of the West Indies against a police officer were still pending before the High Court. These charges arose out of an incident in 2001 when students barricaded the main campus road and clashed with police (*see* Section 2.b.).

The police force has an Office of Professional Responsibility headed by a superintendent to deal with matters of inappropriate police conduct. Although Parliament passed a law in 2001 creating an independent Police Complaints Authority to review complaints against the police, this entity was not yet functioning at year's end.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. The authorities generally adhered to these basic principles, although there were occasional allegations that officials used excessive force.

For a decade, the authorities have issued firearms to special foot patrols in high crime areas in response to public concern. In 2000 the Government created an armed special rapid response unit, which continued to operate during the year. Aside from this exception, the police force was mostly unarmed, in keeping with its British traditions. In addition, the law provides that the police can request the BDF to assist them when needed for specific periods of time. During these times, such as the annual "Crop Over" carnival period, the police and BDF may run joint patrols. In addition, the police operated a mobile unit that could be dispatched as needed, including to the tourism areas.

Prison conditions were inadequate. The sole prison (Glendairy) was antiquated and overcrowded, with more than 700 male and 92 female inmates in a 150-year-old structure built for 350 inmates.

There were separate areas for pretrial detainees and convicted prisoners at the prison; however, there was occasional mixing due to space constraints.

There was a separate wing for female prisoners at the prison, and there were separate detention facilities for boys and girls.

In March the Government discharged 8 of the 14 prison officers who were suspended in November 2001 for the alleged beatings of 36 inmates. The other six officers, including three senior officers, were suspended with half-pay. A total of 9 offi-

cers faced over 100 charges, mainly for assault, as a result of the alleged beatings. At year's end, the officers were free on bail pending further court hearings.

The Government allowed private groups to visit prisons to ascertain conditions.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within a reasonable time, and the Government generally respected these provisions in practice. Criminal defendants had the right to counsel, and attorneys had ready access to their clients.

The Constitution prohibits exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and it was generally free of intervention by other branches of government.

The judiciary includes the Supreme Court, which consists of the high court and court of appeal. The Governor General, on the recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing within a reasonable time by an independent and impartial court, and the Government generally respected this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty.

The Government provided free legal aid to the indigent, with the exception of a limit of approximately \$2,100 (—1,300) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates challenged this limit and sued the Government on the grounds that it effectively deprived them of their right to due process.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched. The Government did not interfere routinely in the private lives of its citizens.

The Government did not censor mail. However, the Government restricted the receipt of foreign publications deemed to be pornographic. Other foreign publications of a nonprurient nature were allowed without restriction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. There were two independent daily newspapers, both of which presented opposition political views. The Government regularly came under criticism in the newspapers and on daily call-in radio programs. There were six radio stations, two of which were owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) was government-owned. Although CBC was a state enterprise, it regularly reported views opposing government policies. The press remained vigorously critical of the Government on a broad range of issues. The Government prohibited the production of pornographic materials.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Political parties, trade unions, and private organizations functioned and held meetings and rallies generally without hindrance.

The Public Order Act of 1970 requires police approval for public assemblies, which was granted routinely.

Gatherings related to school activities do not require written police permission. In March 2001, students at a demonstration at the University of the West Indies barricaded the main campus access road and clashed with police, who arrested several students, a clerk, and a law lecturer. The authorities charged the students and lecturer with impeding the public road access in violation of the Road Traffic Act; lawyers for the students filed assault charges against a police officer and also filed a constitutional motion asserting that statements made by the Prime Minister prejudiced their chances of a free trial. At year's end, the motion had not yet been heard, and all parties remained free on bail.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

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

For more detailed information see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. Citizens and legal residents move freely within the country and leave and enter it without restriction.

The Government had not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have this right in law and exercised it in practice. Political parties compete in free and fair elections by secret ballot at least every 5 years. There were no impediments to participation in the political process, and all citizens over the age of 18 may vote. The Prime Minister exercised executive power along with the Cabinet of Ministers that he appoints, balanced by the bicameral Parliament and the judicial system. In the 1999 elections, the BLP won a decisive victory, gaining a 26-to-2 majority over the Democratic Labour Party.

There were no legal impediments to the participation of women and minorities in government or politics. There were four female Senators and four female members of the Cabinet, including the Deputy Prime Minister, who served concurrently as Foreign Minister, and the Attorney General.

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

Local groups involved with human rights operated freely and without government hindrance. The Caribbean Human Rights Network, a Caribbean-wide human rights organization that had its headquarters and a small staff in Barbados, disbanded in March 2001 due to a lack of funding.

The Government Ombudsman's office hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The Governor General appoints the Ombudsman on the recommendation of the Prime Minister in consultation with the Leader of the Opposition; Parliament must approve the appointment. The Ombudsman serves until age 65 but may be extended for an additional 5 years. The office was prohibited from involvement in policy issues involving foreign affairs, immigration questions, and certain other matters. The office did investigate complaints of inappropriate behavior by police. The Ombudsman's reports were submitted to Parliament.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex. The Government generally respected these rights in practice.

Women.—Violence and abuse against women continued to be significant social problems. In 2001 there were 71 cases of rape reported to the police; more recent figures were not available. Spousal abuse remained a significant criminal activity during the year. Spousal rape, as distinguished from spousal abuse and domestic violence, is not specifically mentioned in the criminal statutes but was addressed as part of British common law, which generally was followed in the country.

The Domestic Violence Law specifies the appropriate police response to domestic violence; it is intended to protect all members of the family, including men and children. It applies equally to marriages and to common law relationships. Criminal penalties for violent crimes were the same regardless of the sex of the offender or the victim; however, in practice female offenders usually received lighter sentences than their male counterparts for similar offenses. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issue. The courts can sentence an offender to jail for breaching such an order. The police had a Victim Support Unit, made up of civilians and volunteers, who offered support to victims, particularly female victims, of violent crimes.

There were public and private counseling services for victims of domestic violence, rape, and child abuse. The Business and Professional Women's Club ran a crisis center staffed by 30 trained counselors and provided legal and medical referral services. The center also had a hot line for clients who wished to maintain their anonymity. The Government funded a shelter for battered women, which accommodates 20 women and children; nongovernmental organizations operated it. The shelter offered psychological and physiological counseling by trained counselors to victims of

domestic violence. The counselors accompanied victims to the hospital and other agencies if necessary. In the first 8 months of the year, the shelter assisted 36 women and 34 children; the maximum stay was 3 months.

Prostitution is illegal, but it was a problem, fueled by poverty and tourism.

Government statistics showed that women bore a greater share of the unemployment burden than men; the unemployment rate for women was 12.6 percent at the end of 2001, compared to a rate of 9.8 percent for men.

Sexual harassment in the workplace was a problem, but no statistics were available. Draft legislation aimed at preventing sexual harassment in the workplace was under discussion in connection with other proposals to harmonize labor legislation among the Caribbean nations. In addition, the Barbados Workers Union continued to seek guidelines on sexual harassment in contracts and agreements it concluded with employers.

Women actively participated in all aspects of national life and were well represented at all levels of both the public and private sectors. They headed 44 percent of all households and were not discriminated against in public housing or other social welfare programs. A Poverty Eradication Fund focused on encouraging entrepreneurial activities to increase employment for women and youth. Women owned approximately 30 percent of all businesses in the Small Business Association and carried in excess of 70 percent of the recent mortgages in the country. The Government reported that the number of female applicants for the police force as well as for other jobs traditionally held by men increased dramatically during the year.

The National Organization of Women was an affiliate of the Caribbean Women's Association, a regional women's organization.

Children born overseas and out of wedlock to Barbadian men are considered citizens. Previously, Barbadian women married to non-Barbadian men were unable to confer citizenship on their children. A 2000 law, retroactive to the date of independence in 1966, provides that a child born to a male or female citizen has immediate citizenship.

Children.—The Government was committed to children's human rights and welfare, although violence and abuse against children remained serious problems. The Government provided for compulsory education until the age of 16. The national health insurance program provided children with free medical and dental services for most medical conditions. The Child Care Board had a mandate for the care and protection of children. This involved investigating day care centers, cases of child abuse or child labor, the provision of counseling services, residential placement, and foster care. The Welfare Department offered counseling on a broad range of family-related issues, and the Child Care Board conducted counseling for child abuse victims.

The press reported that there was an increase in the number of complaints of rape of girls under 16 years old. According to the media, police officials were concerned that children had become targets because rapists saw them as less likely to be infected with the HIV/AIDS virus.

Persons with Disabilities.—Other than constitutional provisions of equality for all, there are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services. However, the Ministry of Social Transformation established the Disabilities Unit to address the concerns of persons with disabilities and created an advisory committee on disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, has long advocated the introduction of legislation prohibiting discrimination. In September the Government issued a White Paper on Persons with Disabilities outlining policies to facilitate the full integration and participation in society of persons with disabilities.

In 2001 the Disabilities Unit found employment for 26 persons, of whom 11 were hired on a permanent basis. In addition to the work experience program, the unit announced plans to acquire two buildings to be used for income generating activities and career counseling. In 2001 the unit began loaning wheelchairs to persons who otherwise would have not had access to wheelchairs. Despite these efforts, in September newspapers reported that a wheelchair-bound child with cerebral palsy was unable to attend classes at her new school in the north of the island because specially equipped buses did not run that far. After her transportation problems were highlighted in the press, a local charitable organization agreed to provide the necessary transportation. In addition, the Government announced that the Transport Board had purchased two adaptive buses and the disability unit purchased a 14-seat bus capable of accommodating 8 wheelchairs.

The Government launched a well-financed fight against the high incidence of HIV/AIDS. In addition to actions designed to limit the spread of the disease, the Govern-

ment initiated programs designed to assist persons living with HIV/AIDS and to discourage discrimination against infected persons. The Elroy Phillips Center, a residence facility for persons with HIV/AIDS, was in its 7th year of operation.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department set provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings had ramps, reserved parking, and special sanitary facilities for such persons.

Section 6. Worker Rights

a. The Right of Association.—Workers freely exercised their right to form and belong to trade unions and to strike. Approximately 30 percent of the labor force belonged to trade unions. Overall union membership declined slightly during the year due to job losses in some industries. There were two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, was independent of any political party or the Government. Some officers of the largest union, the Barbados Workers' Union, were associated personally with the Democratic Labour Party. Most unions belonged to the Congress of Trade Unions and Staff Associations.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most did so when a significant percentage of their employees expressed a desire to be represented by a registered union. While there is no specific law that prohibits discrimination against union activity, the courts provided a method of redress for employees who allege wrongful dismissal. The courts commonly awarded monetary compensation but rarely ordered reemployment. Legislation to address the union recognition process was still pending at year's end.

Trade unions were free to form federations and were affiliated with a variety of regional and international labor organizations. The Caribbean Congress of Labor has its headquarters in the country.

b. The Right to Organize and Bargain Collectively.—The law provides for the right to organize and bargain collectively. Normally, wages and working conditions were negotiated through the collective bargaining process, but in 1993 the Tripartite Prices and Incomes Policy Accord established a 2-year wage freeze. Since then, negotiated protocols contain provisions for increases in basic wages and increases based on productivity. Protocol Four, which covers 2001–04, was intended to encompass the needs of an increasingly global workforce as the Caribbean nations move towards the development of a single market economy and the free movement of skilled labor. It included an appendix covering the treatment of HIV/AIDS in the workplace. These protocols did not have the force of law.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees were permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures. The International Labor Organization (ILO) has criticized the Better Security Act of 1920, which provides that persons who willfully and maliciously break a contract knowing that it would cause injury to persons are liable for a fine or 3 months' imprisonment. The ILO asked that the law be amended on the grounds that it could be invoked in the case of a strike; the Government had not taken any action to do so.

In 2000 the nonunion Barbados Police Association supported the police over unfulfilled promises of increased wages and increased allowances. At year's end, the Government was still reappraising civil service salary scales. The Government insisted that the police should be included in this exercise and that they should not receive special treatment. In the interim, in keeping with promises made by the then-Attorney General, Parliament approved an allowance package for certain ranks of the police force.

There were no manufacturing or special areas where collective bargaining rights were legally or administratively impaired. There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced, compulsory, or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum working age of 16 was broadly observed. Compulsory primary and secondary education policies reinforced minimum age requirements (*see* Section 5). The Labor Department had a small cadre of labor inspectors who conducted spot investigations of enterprises and checked records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers.

e. Acceptable Conditions of Work.—The law provides for and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants (entry level commercial workers). Household domestics were entitled to a minimum wage of \$0.75 (BDS\$1.50) per hour, although in actual labor market conditions, the prevailing wage was triple that amount. There were two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants was \$2.13 (BDS\$4.25) per hour and the minimum wage for 16- and 17-year-old shop assistants was \$1.97 (BDS\$3.95) per hour. The minimum wage for shop assistants was marginally sufficient to provide a decent standard of living for a worker and family; most employees earned more. Some persons also received remittances from relatives abroad or operated cottage industries to supplement their income.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government accepts ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there was no general legislation that covered all occupations. Employers must provide a minimum of 3 weeks' annual leave. Unemployment benefits and national insurance (social security) covered all workers. A comprehensive, government-sponsored health program offered subsidized treatment and medication.

The Factories Act of 1983 sets the officially recognized occupational safety and health standards. The Labor Department enforced health and safety standards and followed up to ensure that management corrected problems cited. The Factories Act also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee could challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identified safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. The Barbados Workers Union accused government-operated corporations in particular of doing a "poor job" in health and safety. The Government pledged to undertake inspections of government-operated corporations and manufacturing plants, and the Labor Department's Inspections Unit conducted several routine annual inspections of such corporations. During the year, several workers died as a result of cave-ins or falls while digging deep trenches. These well-publicized incidents led to increased calls for more stringent safety standards. Workers had a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

f. Trafficking in Persons.—There were no laws specifically addressing trafficking in persons, although laws against slavery and forced labor could be applied. There were no reports that persons were trafficked to, from, or within the country.

BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly govern the country. The Governor General represented Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa's People's United Party (PUP) held 26 of the 29 seats in the House of Representatives following generally free and fair elections in 1998. The judiciary was generally independent.

The Police Department had primary responsibility for law enforcement and maintenance of order. The Belize Defence Force (BDF) was responsible for external security but, when deemed appropriate by civilian authorities, could be tasked to assist the police department. Throughout the year, armed BDF soldiers routinely accompanied police patrols in Belize City in an attempt to reduce the worsening violent crime rate. The police reported to the Minister of Budget Management, Investment, and Home Affairs, while the BDF reported to the Minister of Defence and National Emergency Management. The civilian authorities maintained effective control of the security forces. Some members of the police committed human rights abuses.

The market-based economy was primarily agricultural, although tourism has become the principal source of foreign exchange earnings; the country's population was approximately 250,000. There was a very small industrial sector, comprised of limited agribusiness, clothing, and boat manufacturing. The agricultural sector was heavily dependent upon preferential access to export markets for sugar and for bananas. In 2001 gross domestic product grew at an annual rate of 4.6 percent, and

inflation was minimal. The gap between rich and poor was not a major societal concern.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Principal human rights abuses included alleged unlawful police killings, brutality and excessive use of force by some members of the police and prison guards, poor prison conditions, allegations of arbitrary arrest and detention, and lengthy pretrial detention, but the number of complaints of human rights abuse decreased from 2001. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were reports of trafficking in persons. Belize was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 political killings by the security forces; however, there were some alleged unlawful or unwarranted killings by the police.

On January 9, police found the bodies of Kirk Thompson and Edmund Velasquez floating in the Old Northern River. Thompson and Velasquez were suspected of murdering a police officer, a security guard, and a businessman, and injuring another police officer. Several members of the police told the press the two men would never be taken alive. An autopsy found no signs of gunshot or puncture wounds and determined that the two drowned with no sign of foul play. Despite the autopsy, the victims' families and others remain convinced the police killed Thompson and Velasquez.

On September 27, two forestry officials and two police officers attempted to confiscate a quantity of illegally harvested mahogany at a remote site near the Ke'kchi Maya village of Otoxha but were prevented from doing so by the arrival of 30 Maya, armed with machetes. The Maya, who had been hired to cut the timber, said that the police could not take it because they had not been paid for their work; the police said the Maya advanced on them in a threatening manner. Although the police said they fired warning shots in the air, the police shot and killed two Maya and injured three others. The Government paid compensation to the families of the Maya who were killed and convened a Commission of Inquiry to investigate. The Commission's preliminary finding was that the police acted in self-defense.

On December 30, Albert Pennil was shot to death outside a restaurant in Belize City. The next day police arrested three suspects, one of whom was police constable Kevin Alvarez. In November 2001, the authorities fired Alvarez from the police force after a number of complaints about his behavior, including his alleged involvement in a lethal shooting and a beheading, but rehired him early in the year. Alvarez was expected to appear in court in January 2003.

In the September 2001 killing of Frederick Reynolds by police constable Mervin Vernon, in August the Director of Public Prosecutions (DPP) charged Vernon with manslaughter by negligence, and a trial was expected early in 2003.

In the October 2001 death of George Michael Hyde, the Human Rights Commission of Belize (HRCB) investigated and found the police action to be justified. At year's end, the coroner's inquests into the February 2000 death of Kelvin Barrow and the March 2000 death of prisoner Cecil Ramirez had been delayed because files were destroyed in a September fire at the Magistrate's Court.

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

On September 8, while on patrol, police constable Martin Castillo and two BDF soldiers (on assignment with the police) kidnaped two men in Belize City and turned them over to a suspected drug gang. Castillo and the soldiers were arrested as they were on their way to abduct a third person. The authorities charged the police constable with kidnaping but dropped all charges against the soldiers after they explained that they thought they were conducting legitimate police business.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture or other inhuman punishment; however, there were several reports that the police and prison staff used excessive force. Some of the most common complaints received by the office of the Ombudsman involved alleged misconduct and abuse by police and Department of Corrections personnel. The Ombudsman reported that the number of such reports decreased; however, a number of cases of alleged abuse featured in the press were never reported to the Ombudsman's office. The Ombudsman stated that police use of force was appropriate

in the majority of cases he investigated, usually due to the complainant having resisted arrest, even if the level of force used was sometimes excessive.

The Police Department's internal affairs and discipline (IAD) section, the DPP, and the Ombudsman's office investigated allegations of abuse by officials. According to IAD, there were 322 sanctions against police officers for infractions during the year. The vast majority of these were for petty offenses, with 190 for being absent without leave. A small number of the offenses were more serious, including two convictions for using unwarranted personal violence, two for discharge of a weapon without cause, one conviction for negligent use of a firearm, and three for permitting a prisoner to escape.

An Amnesty International study found that human rights violations by police, the military, and prison guards were sporadic, but also found a general lack of systematic investigation and judicial followup when abuses were reported. In many cases, the Government ignored reports of abuses or withheld action until the case had faded from the public's attention, at which point no action was. Despite this generally poor approach, the Government did take action in a small number of cases.

On March 5, a four-person police patrol entered a store in Belize City, assaulted the owner and a customer, and stole some money, an event recorded on the store's surveillance system. The authorities arrested the four police officers and charged them with theft, conspiracy to commit theft, and two counts of common assault each.

On May 27, four inmates attempted to escape from Hattieville Prison. They were caught and brought to a room in the maximum-security section where prison officers beat them with batons and rifles, and officer Ean Daley shot each prisoner in the upper thigh. Over the next 2 days, human rights groups reported that a dozen other prisoners were severely beaten by guards. The authorities brought no criminal charges against any guard but dismissed Daley, who had been suspended in 2000 for beating and shooting a prisoner. At year's end, the Ombudsman was trying to convince the Government to bring charges against Daley.

In early December, a prisoner escaped from Hattieville Prison. He was recaptured but was injured in the process. Prison guards George Myvett and Joshua Trapp escorted the prisoner to a hospital for treatment. While at the hospital, the two guards began to beat the prisoner in front of witnesses. On December 17, the authorities fired both Myvett and Trapp from their jobs.

In April police used force to break up a peaceful protest march. Two civilians were shot, a number were beaten, and several hundred affected by teargas; several police officers were injured by thrown stones (*see* Section 2.b.).

Prison conditions were poor. Conditions at the country's only prison, in Hattieville, deteriorated since it opened in 1993. Although designed to house 500 inmates, it housed 917 male and 34 female prisoners, resulting in significant overcrowding. In the remand section, 151 detainees shared 13 15- by 20-foot cells, equipped with beds for only a quarter of that number. The remand section flooded in the rain, and the detainees shared one shower in an unlit room. Health, hygiene, and nutrition were problems at the prison. The prison had a medical clinic and nurse, but its budget for medical care was 26 cents (Bz\$0.52) per prisoner per month. Prisoners often had to pay for their own treatment and medicine. The lack of a duty nurse on weekends contributed to the diabetes-related death of a prisoner on July 6. Meals were delivered to the prisoners in 5-gallon buckets on a wheelbarrow, and prisoners ate in their cells—often next to uncovered buckets used as toilets. These buckets were dumped into a ditch directly behind one cellblock, contaminating ground water and creating a breeding ground for insects.

Pretrial detainees were housed in overcrowded cells separate from convicted criminals. The prison psychiatrist provided mental health services; there was no separate facility for inmates with mental illnesses. First-time offenders were housed in the same building as those who committed capital crimes. Although the Assembly passed legislation that would reduce the number of first-time offenders sent to prison, the Government had only limited funding to support the proposed changes, such as developing community service projects to employ first-time offenders.

There were reports of physical brutality by prison wardens. Inmates claimed that guards sometimes beat troublesome prisoners and placed them in an isolation cell until their wounds healed. A common punishment was placing inmates in an unlit and unventilated punishment cell, and restricting their diet to bread and water. This cell was 8- by 10-feet, and held up to nine prisoners for as long as 1 month each. In addition, prisoners enforced their own code of conduct and attacked prisoners convicted of particularly serious crimes, such as child molestation. Incidents of gang- and drug-related violence in the prison continued. Frequent prison breaks, confiscation of weapons, and reports of beatings occurred throughout the prison's

history. During the year, prison authorities confiscated a large number of deadly weapons, including machetes and makeshift guns.

The prison included a separate facility for women, located about 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The 34 women held there occupied 17 cells; each inmate had her own bed. The facility was clean, and inmates had access to limited educational classes and vocational classes in computers.

The Government's efforts to rehabilitate prisoners decreased during the year. Its Youth Enhancement Agency closed, and minor prisoners were then housed in a separate boot-camp style section of the main prison. Opportunities for work or skills training at the prison were extremely limited. The prison's fish farm closed shortly after it opened due to lack of funds, and inmates no longer worked at a nearby citrus farm. Approximately 10 inmates took a welding class, a handful created mosaic tiles, and a limited number of others were allowed to work outside the prison, often in construction. There was a time-off program for good behavior.

In August the Government privatized the management of Hattieville Prison. The Government's Ministry of Home Affairs retained oversight responsibility, but management was taken over by the nonprofit Kolbe Foundation, created by members of the Prison Advisory Board and the local Rotary Club. Kolbe's first acts were to streamline finances and increase professionalism among the staff; by year's end it had acquired beds for most prisoners, and had almost completed building a mess hall and improving the kitchen. Kolbe believed it could improve the prison by reducing endemic waste and corruption, and by using unpaid prison labor on infrastructure projects.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or detention, and the Government generally observed these provisions; however, there were occasional accusations of arbitrary arrest and detention.

Police were required to obtain a search or arrest warrant issued by a magistrate in most cases. The only exceptions were in cases of hot pursuit, when there was probable cause, or if there was suspicion a firearm was present. Customs officers could search a premise with a Writ of Assistance issued by the Comptroller of Customs. The law requires the police to inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a court to be charged formally within 48 hours. In practice the authorities normally informed detainees immediately of the charges against them.

Police were required to follow "The Judges' Rules," a code of conduct governing police interaction with arrested persons. In rare instances, entire cases were thrown out when the Judges' Rules were violated. More commonly, a confession obtained through violation of these rules was deemed invalid. Detainees were usually granted timely access to family members and lawyers, although there were occasional complaints that inmates were denied access or denied a phone call after arrest. Bail was available for all cases except murder and was granted in all but the most serious cases. In cases involving narcotics, the police cannot grant bail, but a magistrate's court may do so after a full hearing. Detainees sometimes could not afford bail, and backlogs in the docket often caused considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged pretrial detention (*see* Sections 1.c. and 1.e.).

Immigration violators ordered deported often spent months in prison while the Government decided what to do with them. In April two Cubans illegally entered Belize, falsely claiming to be U.S. citizens. They were sentenced to 3 months in prison for immigration fraud; they applied for political asylum, which was denied. Despite their prison sentences having ended in July, the pair remained in prison until December (*see* Section 2.d.).

The Constitution forbids exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. In the past, judicial independence had possibly been compromised because some foreign judges had to negotiate renewal of their contracts with the Government, but judges now hold lifetime appointments (until the mandatory retirement age of 65). Only one of the four justices sitting on the Supreme Court was a citizen. There were 17 magistrates with 2 vacant positions; only 3 of the magistrates had a legal background. Every magistrate was a citizen. Most judges were members of the civil service and were routinely transferred between court and administrative postings. The few judges who were trained in law spend most of their career as a magistrate, but the majority were transferred on and off the bench. In May the Government appointed a new Director of Public Prosecutions, and for the first time, appointed him

to the job for life. The DPP reported no attempt at political interference in his job. The judiciary was seen as relatively honest; one corrupt Supreme Court justice was impeached and disbarred in January.

The judiciary consists of the *alcalde* courts (with jurisdiction over small civil claims and minor criminal infractions), the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom. Trial by jury was mandatory in capital cases.

Persons accused of civil or criminal offenses had constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Defendants had the right to be present at their trial unless the opposing party fears for his or her safety. In such a case, the court granted interim provisions under which both parties were addressed individually during a 5-day period.

Legal counsel for indigent defendants was provided by the State only for capital crimes. In 1999 the Government appointed an attorney to the Legal Aid Center to improve and strengthen legal aid services to the public. Most defendants could not afford an attorney, and these were convicted at a much higher rate than those with legal representation. The Legal Aid Center's staff attorney handled up to 150 cases a year, leaving the majority of defendants unrepresented. The judicial system was constrained by a severe lack of trained personnel, and police officers often acted as prosecutors in the magistrate's courts. At year's end, the DPP started hiring professional, full-time prosecutors to replace the largely untrained and inexperienced police prosecutors.

The family court is at the same level as the magistrate's courts; however, trials in cases that come before the family court generally were private. The convicted party in family court may appeal to the Supreme Court.

There were lengthy trial backlogs in the judicial system. Routine cases without a defense attorney were disposed of within 1 month, but cases involving a serious crime or where there was a defense attorney took up to 1 year. The Government briefly implemented a "fast track" trial court to cut the backlog, but the new Director of Public Prosecutions discontinued this process as unconstitutional. Despite an increase in serious crimes, poor case management, lack of attorney discipline, unreliable witnesses, and several cases that had been ongoing for years, the backlog of cases was shrinking.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, government authorities generally respected these prohibitions, and violators were subject to legal action. However, disputes regarding the Government's exercise of eminent domain rights arose in the past and took some time to resolve.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice. The Constitution also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or public health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questioned these statements orally or in writing outside a rigidly prescribed procedure was subject to a fine of up to \$2,500 (Bz\$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints was presented publicly, usually without government interference, in 10 privately owned weekly newspapers, 3 of which were owned by major political parties. There were no daily newspapers. All newspapers were subject to the constraints of libel laws, but these laws had not been invoked in several years. Newspapers, especially the one owned by the opposition party, were routinely critical of the Government without fear of reprisal.

There were 11 privately owned commercial radio stations, including 1 British military station that broadcast news directly from London and other Caribbean nations. Popular radio call-in programs were lively and featured open criticism of, and comments on, government and political matters.

There were two privately owned television stations that produced local news and feature programming. There were also several cable television providers throughout the country that rebroadcast foreign stations. The Belize Broadcasting Authority

regulated broadcasting and asserted its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts. While this right exists, it has not been exercised in several years.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and for freedom of association, and the Government generally respected these rights in practice. Political parties and other groups with political objectives freely held rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits were not denied for political reasons and were granted routinely in practice.

On April 24, over 200 people demonstrated against an increase of bus fares in the town of Benque Viejo del Carmen. Police attempted to disperse the crowd, with some police pushing the demonstrators, some of whom responded by throwing sticks and stones. In the ensuing violence, Corporal Thomas Flores shot and severely wounded two people at close range with an M-16 rifle, and police beat a number of people and indiscriminately fired tear gas. The tear gas affected as many as 300 persons, including 60 elementary school students in a classroom. A police investigation found several officers used excessive force, but no criminal charges were filed against the police. Several protesters were charged, but their cases were postponed indefinitely.

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

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

The law provides for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Until closing its Refugee Department in 1999, the Government cooperated directly with the office of the U.N. High Commissioner for Refugees (UNHCR). Since then, the UNHCR relied upon a local nongovernmental organization (NGO) to monitor the status of asylees and to represent its interests. It was unclear how many outstanding refugee or asylum claims there were as of year's end. Of the 39 cases pending from 2001, several became Belizean residents, mostly through marriage, and others left the country. There were 18 new cases during the year. The Government has not recognized any individual as a refugee since 1997 and had no procedure in place to accept or resettle refugees.

The Government last honored the principle of first asylum in the case of four persons in 1995.

Since 1999 the Government has not accepted asylum applications, and there was no mechanism to adjudicate asylum requests, nor any legislation that formalized the asylum process. An eligibility committee was reestablished early in the year and met once to discuss procedures, but no subsequent meetings were held. In April two Cubans applied for asylum. Lacking a formal mechanism to review their claim, the case went before the Supreme Court, which denied asylum. The Government could not afford to deport the two, so they remained incarcerated at Hattieville Prison, even though they were no longer serving any sentence (*see* Section 1.d.). In December the Government released them and ordered them to leave the country with another group of Cubans who had been denied asylum by the Magistrate's Court. The refugees requested they not be returned to Cuba, so instead the Government allowed them to depart the country by sea, possibly in boats donated by a local businessman. None of the Cubans had valid travel documents, and their destination was unknown.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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 country is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections

every 5 years. The Government changed hands in August 1998 when the PUP won 26 of 29 seats in the House of Representatives in generally free and fair elections.

All elections were held by secret ballot, and suffrage was universal for citizens 18 years of age and older. National political parties included the People's United Party, the United Democratic Party (UDP), and the National Alliance for Belizean Rights. Another political party, calling itself "We the People," was formed in 2001 and planned to field a full slate of candidates in the next election. The country's ethnic diversity was reflected in each party's membership.

No laws impeded participation of women in politics, and 82 percent of both men and women were registered to vote. There were three women in the House of Representatives; two were elected Representatives and the other was appointed to serve as Speaker of the House. There were 5 women in the 12-member appointed Senate, and another woman served as president of the Senate. There was one woman in the Cabinet, and five women were chief executive officers of ministries. The Chief Elections Officer was also a woman.

There were no laws impeding participation by indigenous persons or minority groups in politics. There were Mestizo, Creole, Maya, and Garifuna representatives in the National Assembly. Voter registration and participation were not tracked by ethnicity; however, there were no complaints or reports of electoral discrimination on the basis of ethnicity.

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

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views. The main limitation on human rights monitoring was the limited number of NGOs in the country and their problems attracting funding.

The Human Rights Commission of Belize (HRCB), an NGO affiliated with regional human rights organizations and partly funded by the UNHCR, operated without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB published human rights complaints and urged police and other governmental bodies to act upon them. The HRCB gained prominence through media reports about its workshops and seminars that educate citizens about human rights.

In 1999 the Government created the position of Ombudsman to act as a check against governmental abuses. The Ombudsman stated in his third annual report that he received 334 formal complaints between April 2001 and March. While most complaints were against the Government, a number were against private entities. There were 109 complaints against the Police Department; 65 regarding the Lands Department; followed by the Department of Corrections with 25 complaints; and the Family Courts with 15 complaints. The Ombudsman received an average of five complaints of human rights violations each month, a number that decreased over the last 2 years. The Ombudsman investigated the majority of these cases and published his findings on many of them in the annual reports.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex. The country is multiracial and multiethnic, and discrimination was rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continued to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations included fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services.

Women.—Domestic violence against women was a worsening problem. The Family Violence Unit of the police recorded approximately 1,000 instances of domestic violence against women during the year. Two-thirds of the reported cases were from Belize City, the country's only urban center, although the amount of violence may have been underreported in other parts of the country where persons were reluctant to discuss or report it. A shelter for battered women offered short-term housing. The Belize Organization for Women and Development, an NGO, advised women on their rights and provided counseling.

Laws prohibit rape and sexual harassment. The police and courts began to treat rape more seriously than in previous years, but it was still not a priority. The Magistrate's Court reported five convictions for rape and one for attempted rape, with sentences ranging from 5 to 28 years. Arrests and convictions for rape were widely

covered in the press. The police and courts more strongly enforced statutory rape laws, with 27 convictions. The Criminal Code prohibits marital rape.

Adult prostitution is not illegal, although the law prohibits loitering for prostitution, operating a brothel, or for a man to solicit for prostitution. The laws, which carry penalties of fines up to \$500 (Bz\$1,000) or 1 year of imprisonment, were weakly enforced. Several prominent brothels openly operated, and sex tourism increased.

Despite constitutional provisions for equality, women faced social and economic prejudice. It was harder for women to find employment, and in 1999 the female unemployment rate was 20.3 percent compared with 9 percent for men. Most employed women were concentrated in female-dominated occupations with traditionally low status and wages. Although there was no statistical support for the claim, it was believed widely that women found it more difficult than men to obtain business and agricultural financing and other resources. In recent years the proportion of women in higher education increased, and 64 percent of students at the University of Belize were women.

The Women's Department in the Ministry of Human Development, Women and Children, and Civil Society is charged with developing programs to improve the status of women. A number of officially registered women's groups worked closely with various government ministries to promote social awareness programs. There were no legal impediments to women owning or managing land or other real property. Women were active in all spheres of national life, but relatively few held top managerial positions. However, women headed the Belize Business Bureau, the Belize Citrus Growers Association, several prominent environmental NGOs, and the Belize Rotary Club. The law mandates equal pay for equal work; however, women tended to earn less than men; in 1999 the median monthly income for a working woman was \$290 (Bz\$580) compared to \$317 (Bz\$634) for a man.

Children.—Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the Government-run apprenticeship program, or a vocational institution. However, these programs had room for only about one-half of the children finishing primary school; competition for spaces in secondary school was intense. Education was nominally free, but various school, book, and uniform fees placed education out of reach for many poor children. There were also many truants and dropouts. Religious organizations administered a number of educational institutions, including a majority of primary schools and the most prestigious girls' and boys' secondary schools.

The Family Services Division in the Ministry of Human Development, Women and Children, and Civil Society was devoted primarily to children's issues. The division coordinated programs for children who were victims of domestic violence, advocated remedies in specific cases before the family court, conducted public education campaigns, investigated cases of trafficking in children (*see* Section 6.f.), and worked with NGOs and UNICEF to promote children's welfare. The National Committee for Families and Children included a representative from the Ministry of Human Development, Women and Children, and Civil Society.

Child abuse was not considered to be widespread or a societal problem; the Family Violence Unit recorded around 100 cases of domestic violence against children a year, nationwide. The 1998 Families and Children Act allows authorities to remove a child legally from an abusive home environment, removes the limit placed on child support that a parent must pay, and allows men to file for support, as well as women. It requires parents to maintain and support children until they reach the age of 18, compared with the previous law's mandate of support until the age of 16. The law also accepts DNA testing as legal proof of paternity and maternity. It requires that all adoptions be reported to the Human Development Department of the Ministry of Human Development, Women and Children, and Civil Society, and that prospective parents be screened before they may adopt a child. In January the Minister enacted a statutory instrument to strengthen the Families and Children Act to help prevent child abuse and aid prosecution. The National Organization for the Prevention of Child Abuse and Neglect (NOPCAN) instituted a nationwide telephone help line to encourage discourse and reduce abuse.

A practice that occurred throughout the country was that of parents selling their female children to an older man, often a friend of the family (*see* Section 6.f.).

Persons with Disabilities.—The law does not provide specifically for accessibility for persons with disabilities or prohibit job discrimination against them. The Government's Disability Services Unit, as well as a number of NGOs, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provided assistance to such persons. Children with disabilities had access to government special education facilities, although the requirements to enter such programs were strict.

Indigenous Persons.—Among the country's indigenous people, the Mopan and Ke'kchi were grouped under the general term Maya, although their leaders stated that they should be identified as the Masenal, meaning "common people." The Maya sought official recognition of their communal claims to land, but the Government was reluctant to single out one ethnic group for special consideration. The Government designated 77,000 acres as 9 separate Mayan reserves; however, Mayan leaders claimed that the Maya have an ancestral claim to a total of 500,000 acres. The Maya formed cultural councils and other groups to advance their interests, sometimes with the collaboration of NGOs concerned with environmental and indigenous issues. Several Mayan organizations filed suit to force the Government to recognize the Maya's ancestral land claims and to prevent further granting of logging concessions on the disputed land. At year's end, the suit was still pending in civil court.

In 2000 the Government and the Mayan People of Southern Belize (a loose association of Mayan and nongovernmental groups) signed a collective agreement to address the grievances set forth in a petition by Mayan community leaders in 1998. The Mayan people live in the south, the poorest region of the country and the area that received the least government funding. On December 19, the Government signed an agreement with the Maya Leader's Alliance to begin implementing phase one of the 2000 agreement.

Section 6. Worker Rights

a. The Right of Association.—By law and in practice, workers generally were free to establish and join trade unions. Seven independent unions, whose members constituted approximately 11 percent of the labor force, represented a cross-section of workers, including most civil service employees. The Ministry of Labor recognizes unions after they file with the Registrar's Office. Unions may organize freely, and the law requires employers to recognize unions when a critical level of membership is reached. The law empowers members to draft the bylaws and the constitutions of their unions, and they were free to elect officers from among the membership at large. Unions that chose not to hold elections may act as representatives for their membership, but the National Trade Union Congress of Belize permitted only unions that held free and annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

Although no unions were affiliated officially with political parties, several were sympathetic to one or the other of the two main parties (the PUP and the UDP).

The Constitution prohibits antiunion discrimination both before and after a union is registered. However, since 1989 the ILO has been drawing the Government's attention to the need to ensure that workers benefit from adequate protection against antiunion discrimination, stating that the fine of \$125 (Bz\$250) does not exert a sufficiently dissuasive effect against actions of antiunion discrimination. According to the Trade Unions and Employers Organizations Act, any worker who is a victim of antiunion discrimination can seek redress in the Supreme Court with allowable judgments of up to \$2,500 (Bz\$5,000). Some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress was extremely difficult to obtain in such situations. Technically, a worker could file a complaint with the Labor Department, but in practice it was difficult to prove that a termination was due to union activity.

Unions freely exercised the right to form federations and confederations and affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining and unions practice it freely throughout the country. Employers and unions set wages in free negotiations, or, more commonly, employers simply established them. The Labor Commissioner or his representative acted as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Historically the Commissioner's guidance has been accepted voluntarily. However, should either union or management choose not to accept the Commissioner's decision, both were entitled to a legal hearing of the case, provided that it was linked to some provision of civil or criminal law.

The law permits unions to strike and does not require them to give notice before going on strike. However, this right was limited for public sector workers in areas designated as "essential services." Both the ILO and the International Confederation of Free Trade Unions have found the Government's definition of essential services to be overly broad and an infringement on some workers' right to strike. The Essential Services Act also empowers the Government to refer a dispute to compulsory arbitration to prohibit or terminate a strike.

There was one strike during the year. On March 12, an estimated 2,500 members of the National Teachers Union held a 1-day strike in Belmopan to protest low wages. The Government began negotiations with the union and agreed to a pay raise in late December. In the year's only other labor action, the Belize Agricultural Health Authority (BAHA) held a "work to rule" protest the last week of November. BAHA's workers were protesting management's refusal to recognize the Public Service Union as the workers' representative, the unilateral imposition of new employment conditions, and the termination of three employees. The protest ended when management agreed to enter a dialog with the union.

The Labor Code applies in the country's export processing zones (EPZs). There were no unions in the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Constitution and laws forbid forced, compulsory, or bonded labor, including that performed by children, and it generally was not known to occur. However, there were instances of Chinese migrants being forced to work in local (Chinese-owned) sweatshops. Members of the East Indian community also imported employees from India in effect as bonded labor, holding their passports and paying less than minimum wage. In at least one case, the employer arranged for an Indian employee to be deported when the employee asked for his salary after 2 years' work.

The ILO Committee of Experts criticized a section of the Trade Union Act that calls for the penalty of imprisonment (involving, according to prison rules, an obligation to work) for an employee of the Government, municipal authority, or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications who breaks a contract of service, knowing that the probable consequence will be injury, danger, or grave inconvenience to the community.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Act prohibits all employment of children under age 12 and prohibits employment of children between the ages of 12 and 14 before the end of school hours on official school days. However, there was a long tradition of children's employment on family farms and in family-run businesses, which the law allows. The minimum age for employment was 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education enforced this regulation.

A January 2001 NOPCAN report stated that child labor existed in many forms in the Corozal district, with children working as shop assistants, gasoline attendants, and cane farmers. In 1999 the ILO estimated that 2 percent of children between the ages of 10 and 14 were working. In the rural regions, children worked on family plots and businesses after school, on weekends, and during vacations and were involved in the citrus, banana, and sugar industries as field workers. In urban areas, children shined shoes, sold newspapers and other small items, and worked in markets. Teenage girls, many of whom were migrants from neighboring Central American countries, worked as domestic servants, and some were rumored to work as bar maids and prostitutes. Other reported instances of violation of child labor laws were rare; one report that received wide exposure involved the employment of 16- to 18-year-olds in the Commercial Free Zone, an EPZ near the Mexican border, where the teenagers reportedly worked during school hours and for longer hours than allowed by law.

e. Acceptable Conditions of Work.—The minimum wage was \$1.12 (Bz\$2.25), except in export industries, where it was \$1.00 (Bz\$2.00) per hour. For domestic workers in private households and shop assistants in stores where liquor was not consumed, the rate was raised to \$1.00 (Bz\$2.00) per hour during the year. The minimum wage law did not cover workers paid on a piecework basis. The Ministry of Labor was charged with enforcing the legal minimum wage, which generally was respected in practice. The minimum wage as sole source of income did not provide a decent standard of living for a worker and family. Most salaried workers received more than the minimum wage.

The law sets the normal workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay provided that he was employed continuously for at least 5 years.

The exploitation of undocumented Guatemalan, Honduran, and Salvadoran workers, particularly young service workers and some agricultural workers, continued to be a problem. Health clinics in the region reported that the most frequently treated ailments were pesticide-related skin conditions. During the year, 200 families of banana farm workers were given housing off the farms. The company that buys all the country's banana exports built and donated the village of San Juan to its workers. The Government provided land for the village of Bella Vista, and the European

Union provided water and electricity. Local NGOs reported that banana workers no longer lived near where pesticides are sprayed.

A patchwork of health and safety regulations covered numerous industries, and the Ministry of Labor enforced these regulations to varying degrees. Enforcement was not universal, and the ministries committed their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints had been registered. Workers had the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—The law prohibits certain types of trafficking in persons, and there were reports that persons were trafficked to the country. The Criminal Code does not specifically mention trafficking in persons, but outlaws procuring for sexual purposes. The Summary Jurisdiction (Offenses) Act outlaws maintenance of a brothel, living off of the earnings of prostitution, and solicitation. The maximum sentence for operating a brothel was a \$250 (Bz\$500) fine or up to 6 months in prison. The maximum fine for living off of the earnings of prostitution was \$50 (Bz\$100) or up to 6 months in prison. Enforcement of these laws was rare. Two brothel owners were arrested during the year for employing foreign prostitutes, but they were only charged for immigration violations.

The Ministry of Human Development, Women and Children, and Civil Society, the police, and Immigration all have the authority to investigate cases of trafficking in women or children. In practice, Immigration handled most suspected cases of trafficking. On December 6, Immigration raided a number of brothels in Orange Walk and apprehended 26 female immigrants working as prostitutes—23 from Guatemala and 3 from El Salvador. Most were legal residents; only three were found to be illegally in the country and were deported. All were over 18 years of age, and none complained of coercion.

In 2001 the National Committee for Families and Children (NCFC) and UNICEF commissioned a study of sex trafficking, which concluded that many minors were involved in the sex industry and that some women and children were trafficked to Belize from other Central American countries. NCFC's report found that approximately 35 percent of those working in the sex industry were under age 18 (the Corozal region ranked the highest, with 45 percent of sex workers reportedly being minors), with the youngest girls being only 13 years old. The majority of women working in brothels were from Honduras, El Salvador, and Guatemala; many had worked in the sex industry in their home countries, but came to earn more money as a prostitute in Belize. According to this report, very few claimed to have been coerced or tricked into coming to the country.

In February International Human Rights Law Institute (IHRLI), an NGO, investigated sex trafficking in Belize and found reports of women who were lured to the country under false pretences. The IHRLI study cited two public health workers who believed that up to one-half of all prostitutes had been tricked into coming to Belize. IHRLI also found that the brothel owners kept the personal documents and passports of many of the prostitutes to keep them at the brothels. The report acknowledged that much of its information was anecdotal, from secondary sources.

An NGO representative who distributed condoms and taught HIV awareness in organized brothels reported that he had not met a single prostitute who was coerced or tricked into coming to the country. He believed most prostitutes were adults, with only an estimated 5 percent being under 18, and reported that bar owners traded the women around the country, but only with the women's consent.

The NCFC and IHRLI reports also found many instances of minors engaged in prostitution with an older man, in some case of their own volition, in others arranged by their family. These girls were typically of high-school age, but some as young as 13 were reported, and came from economically disadvantaged families. They provided sexual favors to an older man in return for clothing, jewelry, or school fees and books. In a limited number of cases where the Government attempted to prosecute the men for unlawful carnal knowledge, these efforts were usually stymied by the unwillingness of the girls' families to press charges. In some cases, at least one of which involved a 13-year-old, the family coerced the man to marry their daughter to avoid criminal charges.

There were few confirmed cases of trafficking in children for the purpose of prostitution. On May 3, police arrested Norma Patricia Moz and John Majarrez. Moz, a recent immigrant from El Salvador, had allegedly sold her 10- and 13-year-old daughters to elderly businessman Majarrez for sexual purposes. A police medical exam confirmed that both of the girls had been raped. Majarrez was charged with one count each of carnal knowledge and indecent assault and two charges of com-

mon assault. Moz was initially indicted for procuring, but those charges were dropped in December.

BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. President Gonzalo Sanchez de Lozada of the Nationalist Revolutionary Movement (MNR) took office on August 6 after he was elected by a joint session of the Bolivian Congress following the June 30 national election, in which the MNR won a plurality of the vote. The governing coalition controlled both houses of the legislature. Coalition members held the top leadership positions in both chambers. The executive and legislative branches suffered from corruption and inefficiency. The judiciary, while generally independent, also suffered from corruption and inefficiency.

The National Police have primary responsibility for internal security, but military forces can be called upon for help in critical situations, and this occurred during the year. The Judicial Technical Police (PTJ) conducts investigations for common crimes (cases that do not involve narcotics). The police provided security for coca eradication work crews in the Chapare region, a tropical area where illegal coca is grown. The Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. The Expeditionary Task Force (FEC), a military force composed of conscripts who had completed their obligatory service and commanded by active duty military officers, was disbanded in July. Civilian authorities generally maintained effective control over the security forces; however, at least one member of these forces was convicted of human rights abuses.

The country has a market-oriented economy. There is extensive poverty, and 58.6 percent of the population of 8.3 million lived below the poverty line. Many citizens lacked access to such basic services as potable water, sewage, electricity, and primary health care. The country is rich in minerals and hydrocarbons; however, most workers were engaged in traditional agriculture, and many citizens were barely linked to the cash economy. The Government remained heavily dependent on foreign assistance to finance development projects.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Legal and institutional deficiencies prevented the full protection of citizens' rights. Security forces killed five protesters and injured dozens of others in violent demonstrations during the year. Five members of the security forces were killed and dozens of others injured, allegedly by militant cocaleros (illegal coca growers). There were unconfirmed allegations of torture by the police and security forces. There were credible reports of abuses by police, including use of excessive force, petty theft, extortion, and improper arrests. Investigations of alleged official abuses moved slowly. Prison conditions were harsh, and violence in prisons was a problem. At times police arbitrarily arrested and detained persons. Prolonged detention due to antiquated procedures, inefficiency, and corruption in the judicial system remained a serious problem, although this began to change in 2001 with the implementation of the new Code of Criminal Procedures (CCP). The Government enacted a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the CCP. There were reports that the Government infringed on citizens' property rights. Other problems included domestic violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, discrimination against Afro-Bolivians, child labor, inhuman working conditions in the mining industry, and trafficking in persons. Bolivia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings committed by government agents; however, security forces allegedly killed five protesters during violent demonstrations. Most deaths and injuries occurred in or near the Chapare where cocaleros often violently opposed the security forces' attempts to enforce the law and reduce the illegal coca crop that is used mainly to manufacture cocaine. Some human rights groups blamed the forced eradication for the violence, and cocaleros demanded its suspension, often by blocking a strategic highway used to transport legal crops to market.

On January 15, violent protests erupted in the town of Sacaba, Cochabamba, as police responded to cocalero protests against a decree banning the transport and sale of illegal coca leaf from the Chapare. Sacaba has a legal market for coca from the Yungas, and the market's closure was not the intended object of police actions. However, thousands of demonstrators entered the offices of the General Coca Directorate (DIGECO) and the main market, setting fire to 25 vehicles and damaging other property. Police responded with tear gas, rubber bullets, and live ammunition. On January 16, violence escalated, and a number of injuries were reported on both sides. Demonstrators Fidel Montano Espinoza and Fortunato Markani Limachi were killed by gunfire, but it was not clear who fired the shots. On January 17, cocaleros again entered the coca market, and violent clashes ensued. The next day, four members of the security forces were found dead. Police arrested over 70 cocalero leaders in an attempt to quell the disturbances; all were released shortly afterwards, but some complained of mistreatment by police under the command of Colonel Eduardo Wayar. At year's end, several investigations were underway to determine responsibility in the various incidents.

On January 22, in Cochabamba, 67-year-old Filomena Soliz Terceros was allegedly struck on the head by a tear gas canister fired by police during a violent demonstration. Soliz apparently fled into the market during the confusion, where she was struck by a projectile and rendered unconscious. She was evacuated to Viedma hospital where she died on January 27. Authorities investigated the case and concluded that her death was accidental.

On January 29, in Sinahota, Chapare, FEC soldiers led by army Colonel Aurelio Burgos Blacutt confronted a group of cocalero demonstrators attempting to block the strategic Cochabamba-Santa Cruz highway. According to reports, the FEC soldiers tried to disperse the crowd by firing shots into the air. Other accounts state that the group had just completed an uneventful march and were resting and chewing coca leaves when the soldiers fired into the crowd and attacked them without warning. According to some witnesses, Burgos aimed and fired his sidearm directly at Marcos Ortiz Llanos, who died shortly after being evacuated to Villa Tunari hospital. The witnesses also claimed that Burgos beat them as they tried to render assistance to the stricken Ortiz. The military investigated the shooting and exonerated Burgos, concluding that the officer found Ortiz already wounded and only gestured at him with his pistol while giving orders. The military reported testing Burgos' weapon and determined that it had not been recently fired, although it was not clear whether ballistics tests were conducted. The Attorney General's office opened a parallel investigation into the case but concluded that there was insufficient evidence to bring charges against Colonel Burgos.

On February 5, in Sinahota, Roberto Vargas Villareal died of cardiac arrest following his participation in a peaceful demonstration. According to his family, Vargas was exposed to large quantities of tear gas the previous day in Cochabamba during violent demonstrations. Some individuals charged that the exposure to tear gas caused Vargas' death; however, no medical examination corroborated their contention.

On February 7, Segindina Ichuta Mamani was struck on the head by a rock as she traveled in an open truck along the Cochabamba to Oruro highway. She died shortly afterwards from the injury in Oruro's General Hospital. Although it was not established who threw the rock, some individuals blamed Ichuta's death on the violence surrounding the earlier police crackdown in Sacaba.

On October 6, near Ichoa Alto in the Chapare, a group of approximately 300 cocaleros armed with stones and dynamite sticks surrounded and harassed a Joint Eradication Task Force (FTC) group engaged in coca plant eradication. The FTC security unit fired shots, and cocalero Gabino Toledo was killed, and two others, Erasmo Aguirre Aguirre and Diogenes Melgarejo Candia, were wounded. Cocaleros reportedly did not allow officials access to Toledo's body for examination. The cocaleros later pulled a nearby UMOPAR police officer from his car, beat and then released him, and burned the vehicle. An investigation determined that the police acted in self-defense; no one was charged in the beating of the UMOPAR police officer.

There were several deaths due to violence in the prisons during the year (*see* Section 1.c.).

In September approximately 1 year after the shooting death of Ramon Perez, policeman Macarlo Wilfredo Beltran was tried, convicted of "negligent and imprudent" homicide, and sentenced. Perez was killed when security forces fired shots at a group of protesters attempting to occupy a camp for coca eradication workers near Loma Alta in the Chapare. The judge who convicted Beltran suspended his 3-year jail sentence under light conditions and restrictions.

In December 2001, FEC soldier Juan Eladio Bora shot and killed Casimiro Huanca Coloque, a leader in the Chimore Coca Growers Federation, during a confrontation between the FEC and cocalero protesters seeking to block the Cochabamba-Santa Cruz highway. A second protester, Fructuoso Herbas, was shot in the shin, resulting in the amputation of his leg. A military court determined that security forces acted in self-defense, and it did not charge Eladio Bora. However, the court sanctioned his commanding officer, Lieutenant Heriberto Ramos Salazar, with a 72-hour house arrest for failure to maintain discipline. A separate civilian investigation by the Public Ministry similarly concluded that there was insufficient evidence to charge Eladio Bora.

In the case of Richard Cordoba, who died in February 2001 as a result of asphyxiation through hanging while in police custody in Cochabamba, the PTJ investigated, and the authorities charged at least five police officers in the death. The trial was in its final phase at year's end, and a verdict was imminent.

There was no progress in the November 2001 killing of 3 protesters (Maximo Rojas, Abel Orozco, and Claudio Quiroga Herrera) and injury of more than 13 others in violent clashes with security forces near Senda Seis in the Chapare. According to the Government, a crowd of demonstrators formed around security forces; the security forces first fired warning shots and then, following training doctrine, fired at the feet of the protesters. The Government theorized that several bullets may have ricocheted and struck the demonstrators, causing the deaths and injuries. Human rights organizations disputed the Government's version of events, but public prosecutors concluded there was insufficient evidence to charge any members of the security forces, and no further action appeared likely.

In October 2001, Nilda Escobar Aguilar was killed near Los Amigos, Central Isarzama in the Chapare, when she was struck in the head by a tear gas canister during a clash between demonstrators and security forces. The Attorney General's office continued to investigate his case after receiving new information.

In connection with the November 2001 deaths of 7 persons and injuries to 20 others in clashes between landless peasants and small landowners in Pananti near Yacuiba, the authorities arrested nine campesinos and eight landowners. In November a court in Tarija convicted the landowner defendants of "brawls and fighting," and the judge suspended their 3-year sentences. A separate trial was scheduled for the campesino defendants under the new oral arguments trial system. Dissatisfied with the trial results and the Attorney General's investigation, the NGO Permanent Assembly for Human Rights in Bolivia (APDHB) referred the case to the Inter-American Commission on Human Rights.

In December 2001, security forces and squatters clashed near Yapacani, a town near the Chapare, reportedly resulting in injuries to a number of police and squatters, and the gunshot death of one civilian, Jose Luis Velazquez. Local police reportedly said that they were attacked while attempting to lift a blockade, but a relative said Velazquez was not involved in the protests. There were no further developments in the case, and none appears likely.

The military justice system closed the April 2000 case against Captain Robinson Iriarte Lafuente, who was videotaped in civilian clothes kneeling alongside troops and firing a rifle during the April 2000 disturbances in Cochabamba.

There was no progress in the case of Miguel Angel Rivero Siles, who died in 1999 from severe burns suffered in a solitary confinement cell at San Sebastian prison in Cochabamba. Charges against police at the prison remained pending at year's end.

The 1999 case of Carlos Freddy Cano Lopez, who died of burns after his arrest, continued to work through the court under the old trial system. Cano's widow continued to press charges against policeman Carlos Balderrama and others implicated in the case. At year's end, the Attorney General's office reported that the trial was in its final stage.

There was no progress in the 1998 case of five civilian deaths in the Chapare and further progress appeared unlikely.

There was no progress in the 1996 cases against officers accused of responsibility for violence in countering a protest that resulted in civilian deaths in Amayapampa areas of Potosi Department, and none appeared likely. In December the Attorney General closed cases against then-President Gonzalo Sanchez de Lozada and other senior officials for their alleged involvement in the cases.

The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths resulted in a perception of impunity. However, the Congressional Human Rights Committee, the Ombudsman's office, the Ministry of Justice and Human Rights, and NGOs continued to press the Government to expedite action in the cases.

There were reports of killings of government security forces by nongovernmental actors. On January 17, during violent confrontations in Sacaba, 4 members of the security forces were killed and approximately 60 more were injured in the days after the demonstrations. Army conscripts Waldo Cartagena and Humberto Pinaya died from gunshot wounds fired by snipers, and policeman Antonio Gutierrez and Army Second Lieutenant Marcelo Trujillo Aranda died of strangulation and trauma to the head. Their bodies showed signs of torture and appeared to have been severely beaten by rocks and dragged approximately 2 miles to where they were killed. The Government believed that illegal coca growers were responsible for the four deaths, and investigations continued at year's end.

On October 4, in Majo, south of Chimore, Marine conscript and FTC member Robin Huanacoma was critically wounded when he triggered a buried explosive booby trap while eradicating illegal coca plants. Huanacoma was evacuated to a hospital in Santa Cruz where he died a few hours later. Authorities suspected militant cocaleros of planting the device and confirmed that some cocaleros received special training on the handling of firearms and the fabrication of homemade mines from individuals opposed to eradication. The case was under investigation at year's end, but it appeared unlikely that those responsible would be identified.

There was no progress in the investigation of the 2000 killings of four security officials and the spouse of one security official who disappeared in the Chapare during violent disturbances and were later found tortured and killed. Another security official was still missing and presumed dead. The Government believes that illegal coca growers were responsible for the deaths of the security officials, but it appeared unlikely that evidence would be found to prosecute a case.

On November 17, at Sindicato Los Yukis, near Yapacani, approximately 30 armed and hooded men invaded a building of the Federation of Colonizers and shot and killed campesino Luciano Jaldin Fermin. A week later, the bodies of three other men (Ricardo Rojas Caravallo, Martin Condori, and Wilber Nunez Flores) were found nearby in the jungle; autopsies revealed signs of torture and strangulation. A local landowner was suspected of hiring the gunmen who killed Jaldin; however, responsibility for the killings of the other individuals remained unclear, and the Attorney General's office was investigating the cases at year's end.

There were several reported cases of alleged criminals lynched or burned by civilians, sometimes resulting in death, for their alleged crimes.

b. Disappearance.—There were no reports of politically motivated disappearances. On December 10, the President submitted a bill to Congress that would make disappearance a crime punishable by up to 30 years in prison.

The case of Juan Carlos Trujillo Oroza, who disappeared during the 1971–78 de facto regime of President Hugo Banzer, was reopened pursuant to a November 2001 ruling of the Constitutional Tribunal, but further developments appeared unlikely.

The death in mid-year of Hugo Banzer ended any further action on the December 2001 international arrest warrant that an Argentine judge had filed for the former president to face legal proceedings in Argentina for his alleged role in "Plan Condor" in the mid-1970s.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and the Government generally respected these provisions; however, there were a number of allegations of torture, beatings, and abuse by members of the security forces.

Security forces clashed with demonstrators on several occasions during the year, resulting in the deaths of five demonstrators and dozens of injuries (see Sections 1.a. and 2.b.). In January dozens of protesters were injured during clashes between violent demonstrators and government security forces in Sacaba. At least some of the injuries were attributed to rubber bullets used by the security forces. Investigations into these incidents were pending at year's end.

There were allegations that security officials beat cocalero leaders whom they detained in Sacaba during the January disturbances and that they beat other civilians to try to learn the names of those responsible for security officers' deaths. At year's end, the Public Ministry continued investigating the allegations to determine the security units and commanders involved.

There also were credible allegations that military commissioned and noncommissioned officers beat and otherwise mistreated military conscripts. For example, Colonel Rory Barrientos, the Commander of the 2nd Ecological Battalion, allegedly beat conscripts in four separate incidents but reportedly was only lightly sanctioned by the military. In October the Permanent Assembly for Human Rights (APDH) sought charges against Barrientos in a civil court, and the Human Rights Ombudsman's office began an investigation into his actions. Barrientos was suspended from duty and received unspecified sanctions from a military court.

On November 10, in Cochabamba, army Major Luis Fernando Garcia, in an apparently inebriated state, shot and wounded Jose Luis Alvarez, whom Garcia may have misidentified for an assailant who had accosted him earlier. Police arrested Garcia, who remained in jail at year's end awaiting trial.

Pursuant to agreements with the Human Rights Ombudsman's office and the Ministry of Justice and Human Rights, the Armed Forces between 1999–2002 provided human rights training for 1,110 instructors and approximately 30,000 recruits.

Several police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, the police generally did not investigate their own colleagues, and prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty. The FELCN internal affairs unit investigates allegations against FELCN officers of malfeasance, wrongdoing, and human rights abuses.

Approximately 6,000 FELCN members, PTJ members, lawyers, law students, prosecutors, judges, and NGO representatives received training on the new Code of Criminal Procedures over the last 3 years. During the year, policemen and military officers received crowd control training that emphasized respect for human rights and internationally accepted principles of crowd control. FELCN officers also received training over the last 3 years on human rights issues incorporated in general counternarcotics training. Basic FELCN and UMOPAR training includes a human rights module.

Indigenous communities in areas with little or no central government presence imposed punishment that reportedly included the death penalty for members who violated traditional laws or rules, although the Constitution prohibits the death penalty.

In attacks on government security forces and coca eradication crews, militant cocaleros killed five members of the security forces and injured more than 70 others.

On September 3, near Guadalupe in the Chapare, approximately 70 cocaleros armed with weapons and dynamite confronted a FTC group preparing to eradicate coca plants. Police fired tear gas to disperse the crowd. In the ensuing skirmish, Fructuoso Apaza struck armed policeman Silverio Chinchí Plata with a machete on the head and shoulder, severely wounding him. The policeman was evacuated to a hospital in Santa Cruz. Apaza, who suffered broken ribs during his arrest, was charged with attempted murder; at year's end, he was free on bail while the case remained under investigation.

On October 19, near Alto San Pablo in the Chapare, Army conscript Jose Luis Aramayo suffered leg and abdomen injuries when his pick struck a booby trap while he and his JTF companions were eradicating coca. The JTF commander said that 12 such homemade mines were found and deactivated in the area in previous weeks. Officials suspected cocaleros of planting the devices, but it appeared unlikely that those responsible would be found.

On November 16, during routine eradication activities, four Navy members of the Joint Eradication Task Force were injured when a booby trap exploded at an eradication site near San Pablo, south of Chimore. Injuries to three of the eradicators (Armando Arteaga, 19, Aurleio Sejas Soliz, 18, and Edilberto Gonzales Teran, 22) were relatively minor, and they were treated at the eradication camp. The fourth, Juan Marcelo Chicoba, 22, was injured more seriously and was evacuated to Santa Cruz where he was treated and later discharged. Following the incident, UMOPAR commander Hernan Capriolo said that 25 booby traps had been deactivated in the area during the preceding 15 days. The Ministry of government also said that some peasants in the Chapare had received training by individuals opposed to anti-drug efforts, in the handling of firearms and the fabrication of booby-traps.

Prison conditions were harsh. Prisons were overcrowded and in poor condition. With the exception of the maximum-security prison of Chonchocoro in El Alto, government authorities effectively controlled only the outer security perimeter of each prison. Inside prison walls, prisoners usually were in control. Violence between prisoners and, in some cases, the involvement of prison officials in violence against prisoners were problems. Corruption was a problem among low-ranking and poorly paid guards and prison wardens. Detention centers, which are supposed to house the accused prior to the completion of their trials and sentencing (if convicted), also were overcrowded. Convicted criminals often were housed in detention centers on a judge's orders because of overcrowding in the larger prisons.

According to the Director General of the Penal System in the Ministry of government, as of December, there were 5,535 prisoners in facilities designed to hold 4,700 prisoners. Nearly 90 percent of prisoners (almost 90 percent of them men) were held in prisons in the major cities. The majority of all prisoners were held for narcotics crimes. The Pardon and Extraordinary Freedom Jubilee 2000 Law, as amended, re-

duced the overcrowding. The law pardoned prisoners under the age of 21 or over the age of 60; reduced felony sentences by one-third for all prisoners sentenced prior to August 2000; and pardoned prisoners who are parents of minor children and have completed at least 50 percent of their sentences. Reductions in felony sentences were not extended to prisoners convicted of murder, parricide, or treason, nor to most prisoners convicted of terrorism, rape, or narcotics trafficking. In addition, prisoners who were convicted of murder, rape, kidnaping, terrorism, or narcotics crimes and sentenced to more than 10 years in jail were not eligible for the benefits given to prisoners under age 21 or over age 60, or to parents of minor children.

A prisoner's wealth can determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices ranged from \$17 to \$4,340 (130 to 32,500 bolivianos), paid to prior occupants or to prisoners who control cell blocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupy tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some "low-rent" sections obliges inmates to sleep sitting up. Although only children up to 6 years old are supposed to live with an incarcerated parent, children as old as age 12 live with their fathers in San Pedro prison. According to the Director General, in December there were 803 children living with a parent in prison. If such children have nowhere else to go, the Government considers it more humane to support them in prison than to leave them homeless. The standard prison diet can cause anemia. The Government budgets only \$0.30 (2 bolivianos) per prisoner per day for food, and prisoners who can afford to supplement the standard prison diet by buying food do so. There was no adequate health care within the prisons, and it was difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners can obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Drugs and alcohol were readily available for those inmates who can pay.

There was no progress, and none appeared likely in the following prison death cases: The March 2001 hanging of Jose Valentin Mujica at the maximum security San Pedro de Chonchocoro prison near La Paz; the June 2001 killing of three prisoners at Palmasola prison in Santa Cruz resulting from violence among inmates; the 2000 hanging of Brazilian prisoner Mustafa Samir and shooting of Peruvians Omar Casis and Renaldo Montesinos at San Pedro de Chonchocoro prison.

There are separate prisons for women; conditions for female inmates were similar to those for men. However, overcrowding at the San Sebastian women's prison in Cochabamba was worse than in most prisons for men.

Convicted juvenile prisoners were not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners were scarce to nonexistent. The Government acknowledged these problems but did not budget sufficient resources to correct them.

The Government permits prison visits by independent human rights observers and news media representatives.

d. Arbitrary Arrest, Detention, or Exile.—There were some instances of arbitrary arrest and detention. Arrests were carried out openly. The new CCP requires an arrest warrant, and the police must inform the prosecutor of the arrest within 8 hours. The prosecutor within 16 hours then must have the detainee released under bail or ask a court to continue to hold the detainee in jail until trial. A detainee may not be held for more than 24 hours without court approval. However, there were credible reports that these legal safeguards were violated in some cases.

Denial of justice through prolonged detention remained a serious ongoing problem, although this began to change with the full implementation in 2001 of the new CCP that provides that a detainee cannot be held for longer than 18 months awaiting trial and sentencing (*see* Section 1.e.). If the process is not completed in 18 months, the detainee may request his release by a judge. However, judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures keep persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners are released if a judge rules detention illegal, but the process can take months. Prisoners may see a lawyer, but approximately 70 percent cannot afford legal counsel, and public defenders were overburdened (*see* Section 1.e.).

A 2001 report of the U.N. Committee Against Torture estimated that two-thirds of the prison population were waiting for the processing of their cases to be finished.

The Government continued to address the problem of delay of justice by implementing the 1994 constitutional reforms to streamline the judicial system and by taking measures to correct other deficiencies as they come to light. Most prisoners still awaited either trial or sentencing, but under the CCP the courts had begun to provide release on bail for some prisoners. Judges still have the authority to order

preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge may order significant restrictions on a suspect's travel.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their protection, simply on the orders of a social worker. There is no judicial review of such orders.

The 1997 detention case of Waldo Albarracin, President of the APDH, continued to move slowly through the judicial system. The authorities had yet to take any action regarding the four police officials accused of abducting Albarracin; although legal cases against two policemen remained pending at year's end, further action was unlikely.

The Constitution prohibits forced exile of citizens, and the Government did not employ it.

e. Denial of Fair Public Trial.—The judiciary was generally independent; however, corruption and inefficiency in the judicial system remained major problems. Poor pay and working conditions made judges and prosecutors susceptible to bribes.

The judicial system has three levels of courts: Trial Court, Superior Court, and the Supreme Court or Constitutional Tribunal appellate review. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

With the full implementation in 2001 of the CCP, the criminal justice system changed from essentially a closed, written system to a system of transparent oral trials. The earlier system made it difficult for poor, illiterate persons to have effective access to courts and legal redress and gave rise to lengthy judicial processes and prolonged pretrial incarcerations (*see* Section 1.d.). The CCP specifically addresses this problem by requiring that no pretrial detention exceed 18 months. In cases in which a sentence has been issued, but the case is being appealed, the maximum period of detention is 24 months.

The 2001 Public Ministry Law provides that the prosecutor, instead of the judge, is in charge of the investigative stage of a case. The prosecutor instructs the police, from the perspective of a legal practitioner, as to what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases. During its first stage, the prosecutor tries the case before a judge of instruction if it is a misdemeanor case (which carries a possible sentence of less than 4 years), or before sentencing courts that include three citizen judges (jurors) and two professional judges for felony cases (possible sentence of 4 years or more).

The superior court review is restricted to a review of the application of the law. Supreme Court review, the third stage, is restricted to cases involving exceptional circumstances. During the superior court and Supreme Court reviews, the courts may confirm, reduce, increase, or annul sentences, or provide alternatives not contemplated in lower courts.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to have an attorney, to confront witnesses, to present evidence on their own behalf, to due process, and to appeal judicial decisions. In practice almost none of these rights have been protected systematically, although the implementation of the CCP facilitated more efficient investigations, transparent oral trials, and credible verdicts.

The law provides for a defense attorney at public expense if needed; however, one was not always promptly available. There were approximately 167 public defenders, legal assistants, and social workers nationwide. The public defender program also provides information about human rights to citizens and seeks to involve public defenders in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. Mobile public defenders who travel to the more remote parts of the country had some positive effect; however, public defenders remained overburdened.

The CCP also recognizes the conflict resolution traditions of indigenous communities, but not the imposition of the death penalty (*see* Section 1.c.).

The Judicial Council oversees the disciplinary aspects of the judicial process and provides an impartial body to review the actions of judges. Its powers include the authority to conduct administrative investigations and to censure for malpractice judges at all levels found culpable of malfeasance; however, the dismissal of a superior court or higher level judge requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council may suspend without pay, for up to 13 months, judges against whom a criminal charge has been filed or against whom a disciplinary process has been initiated. At year's end, legislation remained pending to give the Council the power to effect suspension of up to 3 years

or specifically to establish the Council's power to dismiss judges found guilty of malpractice by the Council.

The military justice system generally was susceptible to senior-level influence and corruption and avoided rulings that would embarrass the military. When a military member is accused of a crime related to his military service, the commander of the affected unit assigns an officer to conduct an inquiry and prepare a report of the findings. The results of the findings are forwarded to a judicial advisor—usually at the division level—who then recommends a finding of either innocence or guilt. For minor infractions, the advisor may recommend sanctions such as house arrest or loss of time-in-grade (which delays promotions and affects future assignments). For major infractions, the case is forwarded to a military court (the permanent tribunal for cases involving enlisted members and officers below the rank of general/admiral and the supreme tribunal for generals/admirals and appeals of cases from the permanent tribunal). General officers head both tribunals. For the permanent tribunal, a judge advocate of war (usually a civilian lawyer) reviews the findings of the advisor and may change the recommendations of the advisor. The permanent tribunal usually accepts the recommendations of the judge advocate of war. Authorities recognize conflicts over military and civilian jurisdiction in certain cases involving human rights. An inter-ministerial commission, headed by the Ministry of Justice and Human Rights, was charged to prepare legislation to address these conflicts as well as to incorporate various international human rights agreements into domestic law.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The Constitution provides for the sanctity of the home and the privacy of citizens; however, while the authorities generally respected these provisions, there were credible allegations of security forces involved in thefts of property. Residents in the coca-growing areas generally were reluctant to file and pursue formal complaints.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the right to express ideas and opinions freely by any means of dissemination; however, there were some limitations on freedom of speech. Newspapers were privately owned and frequently adopted antigovernment positions. State-owned and private radio and television stations generally operated freely. In January the Government briefly closed the Chapare's "Radio Soberania," a forum for cocalero leader and then-presidential candidate Evo Morales. Although it lacked proper permits, engaged in tendentious speech, and broadcast instructions to cocaleros on where to gather for rallies and roadblocks, the station continued to operate freely.

The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a minister, the sentence may be increased by one-half.

Press associations criticized the Government for the death in September 2001 of a civilian who was accompanying journalists as they approached an eradication camp near Loma Alta in the Chapare (see Section 1.a.). They also called for the Government to provide for protection and freedom of movement in the Chapare, where illegal coca growers often block roads (see Section 2.d.).

The 40-person La Paz Press Tribunal, an independent body, is authorized to evaluate journalists' practices that are alleged to violate either the Constitution or citizens' rights. The Government prohibited the importation of pornographic books, magazines, and artwork, but it did not block Internet sources.

The Government did not restrict academic freedom, and the law grants public universities autonomous status.

b. Freedom of Peaceful Assembly and Association.—The law provides for the right of peaceful assembly, and the authorities generally respected this right in practice; however, security forces killed five persons and injured others during violent protests during the year (see Sections 1.a. and 1.c.). The Government routinely granted permits for marches and rallies. There were numerous demonstrations throughout the year; in some cases protesters blocked roads, and on several occasions protesters became violent. The authorities generally tried to avoid confronting demonstrators, and frequent marches in downtown La Paz caused chronic traffic congestion and inconvenience for citizens. However, security forces clashed with union and other demonstrators on several occasions during the year. The authorities intervened only when rallies became violent or interfered substantially with normal civic activity. The police regularly used tear gas and other forms of crowd control.

The law provides for freedom of association, and the authorities generally respected this right in practice. The Government requires nongovernmental organizations (NGOs) to register with the appropriate departmental government, and authorities granted such registration routinely and objectively.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. The Roman Catholic Church received support from the State (about 300 priests receive small stipends) and exercised a limited degree of political influence.

Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. The Ministry is not allowed to deny registration based on an organization's articles of faith, but the legal process can be time-consuming and expensive, leading some groups to forgo registration and operate informally without certain tax and customs benefits. Most registered religious groups were identified as Protestant or "evangelical."

In 2000 then-President Banzer signed a Supreme Decree governing the relationships between religious organizations and the Government. The decree, reflecting input from religious groups, was designed to increase transparency and dialog in church-state relations.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political or other reasons.

The law provides for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government accepted eight refugees during the year. The total number of registered refugees, according to UNHCR, was 351. The issue of the provision of first asylum did not arise during the year.

There were no reports of persons forced to return to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties ranging from far left to moderate right functioned openly. Implementing regulations for the 1994 constitutional revisions specify that half of the congressional deputies be elected individually and directly, rather than from party lists. On August 6, President Gonzalo Sanchez de Lozada of the centrist Nationalist Revolutionary Movement assumed the presidency (succeeding Jorge Quiroga of the Nationalist Democratic Action Party) after he was elected in a joint session of the Bolivian Congress following the June 30 national election. The MNR won a plurality but not a majority of the popular vote. A coalition of parties supported the MNR in the Joint Session vote, which is required when no candidate wins a majority of the popular vote. Although there were some allegations of vote-counting irregularities in the June elections, most observers, including a mission from the Organization of American States, concluded that the elections were free and fair. The governing coalition controlled both houses of the legislature, holding 17 of 27 seats in the Senate and 71 of 130 seats in the Chamber of Deputies. Coalition members held the top leadership positions in both chambers. Elections for national offices and municipal governments are held every 5 years; the next national election is scheduled for June 2007.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. Pursuant to a July 2001 mandate from Congress, the CNE selected new departmental electoral court judges and modified the Electoral Code so that head departmental electoral judges are selected by congressional vote.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership. The law requires that every third candidate on party candidate lists be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—

a requirement that has increased female representation to approximately 30 percent of municipal council positions. However, in 2000 there were reports that in some municipalities party leaders pressured councilwomen to resign in favor of their male substitutes, and women in three separate municipalities allegedly were threatened with death if they did not resign their positions. There were 28 women among the 157 deputies and senators, 3 women among the 50 vice ministers, and 2 women in the 18-member Cabinet. There were no indigenous members of the Cabinet, and the number of indigenous members of the Chamber of Deputies was estimated at 35 percent—a figure difficult to confirm since designation as indigenous is self-declared.

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; however, NGOs and the Ombudsman complained that occasionally government security forces and government ministries refused to cooperate when NGOs or the Ombudsman were conducting investigations.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. The Ombudsman is chosen by Congress and is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government. The Human Rights Ombudsman, Ana Maria Romero de Campero, conducted numerous investigations and in September presented a comprehensive report to Congress that was critical of the Government. The report stated that for the fourth consecutive year the police force was the Government organization most often accused of human rights abuses. Indigenous people filed approximately 60 percent of all complaints received by the Ombudsman. The Congressional Human Rights Committee also investigated alleged human rights abuses in the Chapare.

The Chimore Center for Justice and Human Rights (CCJHR) continued to be active in the Chapare region. It reported its findings to the Ministry of Justice and Human Rights, disseminated human rights information, accepted complaints of abuses committed, kept records and referred complaints to the Public Ministry. The CCJHR also houses a medical forensic expert and an investigative staff to review complaints.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, language, political or other opinion, origin, or economic or social condition; however, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

Women.—Violence against women was a pervasive problem, but no system existed to record the incidence of cases. The Family Violence Units of the police handle crimes of domestic violence and physical or sexual abuse against women and children. The La Paz unit alone received 1,212 complaints for the period January-July: 519 for physical violence, 178 for psychological violence and 56 for sexual violence. There was only one reported conviction under the Family Violence Law—a case in which a husband was sentenced to 8 years and 2 months for slashing his spouse. On November 25, Vice Minister for the Woman Martha Noya stated that 7 out of 10 women suffered psychological or physical violence in the home 3 to 5 times a year and that 3 of 10 women suffered a higher rate of abuse. The Family Violence Unit estimated that more than 53 percent of the victims do not take any action when exposed to domestic violence.

Rape was also a serious but underreported problem. The Law on Domestic and Family Violence makes the rape of an adult victim a public crime; however, the victim must press charges, and only 3 percent of complaints received by the Public Ministry were for rape. The Law Against Sexual Violation criminalizes statutory rape, with penalties of 10 to 20 years for the rape of a child under the age of 14, 2 to 6 years for statutory rape of a person from 14 to 18 years of age, and 5 to 20 years for forcible rape of a child or an adult. The CCP provides that crimes against adults included in previous laws on sex crimes can be made public crimes; however, the victim must press charges. Sexual crimes against minors automatically are considered public crimes. Public agencies stated that reports of abuse increased markedly as a result of these laws, as citizens became more aware of the problem and of the availability of help.

Prostitution is legal for adults age 18 and older, and there were reports of trafficking in women for the purposes of prostitution and forced labor (*see* Section 6.f.).

The CCP (*see* Section 1.e.) considers sexual harassment a civil crime. There were no statistics on the incidence of sexual harassment, but the problem generally was acknowledged to exist widely in the male-oriented society.

Legal services offices devoted to family and women's rights operated throughout the country. The Maternal and Infant Health Insurance Program provided health services, focused on maternal and infant health, to women of reproductive age and to children under the age of 5.

Women generally do not enjoy a social status equal to that of men. Many women do not know their legal rights. Traditional prejudices and social conditions remained obstacles to advancement. In rural areas, for instance, traditional practices restricting land inheritance for women remained a problem. The Labor Code restricts the proportion of female staff in business to 45 percent of the workforce unless large groups of women are required in a particular enterprise; however, this restriction was not enforced actively. The minimum wage law treats men and women equally; however, women generally earned less than men did for equal work. Most women in urban areas worked in the informal economy and the services and trade sectors, including domestic service and micro-business, whereas in rural areas the vast majority of economically active women worked in agriculture. Young girls often left school early to work at home or in the economy. A 2000 UNDP study found that the literacy rate for women over the age of 15 was 79 percent compared with 92 percent for men. Although not effectively enforced, the national labor law limits women to a workday 1 hour shorter than that of men and prohibits them from working at night (*see* Section 6.e.).

Children.—The Government is aware of the need to provide legal and institutional infrastructure for the protection of children. There are seven Defender of Children and Adolescents offices to protect children's rights and interests. However, the Government did not give the situation of children sufficient political priority to improve conditions quickly and effectively.

Although the law requires all children to complete at least 5 years of primary school, this requirement was enforced poorly, particularly in rural areas. The Ministry of Education and the World Bank estimated in 1997 that 26 percent of children graduated from high school. Girls had lower rates of school participation and higher dropout rates than boys.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children less than 3 years old were chronically undernourished. A 1999 UNICEF report on infant mortality indicated that 85 of every 1,000 children died before the age of 5. Many children, particularly from rural areas, lack birth certificates and the identity documents they need to secure social benefits and protection. The Government developed but had not funded a plan to provide these documents free of charge.

Physical and psychological abuse in the home was a serious problem. Corporal punishment and verbal abuse were common in schools.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. At least two NGOs, Fundacion La Paz and Q'Haruru, had active programs to combat child prostitution. The Government's plan to combat child labor included a campaign against child prostitution (*see* Section 6.d.).

There were reports of children trafficked for forced labor to neighboring countries (*see* Section 6.f.).

The Code for Boys, Girls, and Adolescents establishes the rights of children and adolescents; it also regulates adoptions and tightens protection against exploitative child labor and violence against children. However, resource constraints continued to impede full implementation of this law.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their own protection, simply on the orders of a social worker (*see* Section 6.d.).

Child labor was a serious problem (*see* Section 6.d.). In September the Government received \$1.5 million (11.2 million bolivianos) for a project to combat child labor in the Department of Potosi.

Persons with Disabilities.—The Law on Disabilities requires wheelchair access to all public and private buildings, duty free import of orthopedic devices, a 50 percent reduction in public transportation fares, and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was mandated to oversee the law's enforcement, conduct studies, and to channel and supervise programs and donations for persons with disabilities; however, there was little information on its effectiveness. The electoral law requires accommodation for blind voters; however, in general there were no special services or infrastructure to accommodate persons with disabilities. A lack of adequate resources impeded full implementation of

the law. Societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society.

Indigenous Persons.—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua or Aymara groups. The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law. However, the issue of land, specifically the Agrarian Reform Law, was a continuing source of complaints and protests by indigenous people. Indigenous people complained that their territories were not defined legally or protected, and that outsiders exploited their resources.

Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that offer them greater opportunities for self-determination. The CCP recognizes the conflict resolution traditions of indigenous communities (*see* Section 1.e.).

National/Racial/Ethnic Minorities.—There is societal discrimination against the small Afro-Bolivian minority. Afro-Bolivians generally remained at the low end of the socioeconomic scale, and faced severe disadvantages in health, life expectancy, education, income, literacy, and employment. The majority of the estimated 25,000 Afro-Bolivians live in the Yungas region of the department of La Paz.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide that workers have the right to form trade unions; however, inefficient labor courts and inadequate government regulation at times limited the exercise of this right by workers. Workers may form a union in any private company of 20 or more employees; however, an estimated 70 percent of workers were employed in micro or small enterprises with fewer than 20 employees. Moreover, labor leaders said that a section of the 1985 Economic Liberalization Decree, which eliminated the Government's role in authorizing worker dismissals had been exploited by the private sector to fire workers for organizing or to avoid paying severance benefits, although both actions remain illegal. Public sector workers also have the right to form a union. The Labor Code requires prior government authorization to establish a union and confirm its elected leadership, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat. Following the 1997 visit of an International Labor Organization (ILO) direct contacts mission, the Government agreed to amend its labor laws with respect to the powers of authorities to dissolve trade unions by administrative order and its power to supervise union affairs; however, it has not done so. The Government was not known to abuse this authority for political or other reasons and generally did not penalize workers for union activities.

Because of the legal costs and time required to register new nongovernmental entities, almost all unions are affiliates of the Bolivian Labor Federation (COB). Less than one-half of the workers in the formal economy belong to unions, and employment in the formal economy itself has fallen markedly in recent decades to approximately 30 percent of those employed. Several large groups of informal workers, including up to 50,000 "cooperative" miners, thousands of street vendors, and hundreds of thousands of poor indigenous farmers (*campesinos*) were loosely affiliated with the COB.

In many respects, the country's labor laws and regulations are favorable to workers; however, many of the standards were ignored in practice.

Unions were not free from influence by political parties, but many in organized labor increasingly rejected traditional political parties and supported movements seeking fundamental change in the economic and political system. Most parties have labor committees that attempted to influence union activity and also had party activists inside the unions.

The law prohibits discrimination against union members and organizers. However, labor laws intended to protect workers' rights to freedom of association and to form and join trade unions are inadequate and fail to deter employers from retaliating against workers, nor does the law protect workers against acts of interference by employers. The Government agreed to amend these laws following an ILO direct contacts mission in 1997; however, the Government has failed to do so. Complaints of antiunion discrimination go to the National Labor Court, which can take a year or more to rule due to a significant backlog of cases. The court ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders said that problems were often moot by the time the court ruled.

The law allows unions to join international labor organizations. The COB worked with mainstream international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide workers with the right to organize and bargain collectively. Collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, was limited. Most collective bargaining agreements are restricted to wages and exclude other conditions. The Labor Code requires unions to revert to government mediation before beginning a strike and employers to do likewise before initiating a lockout. The practice of direct employee-management negotiations in individual enterprises expanded, as the private sector's economic role expanded.

There was limited major strike activity during the year, in part because attention was focused on national elections.

The Labor Code bans strikes in public services, including banks and public markets; however, workers in the public sector frequently did strike, with strikes by teachers and health care workers the most common. Public sector employees have not been penalized for strike activities in recent years. Solidarity strikes are illegal, but the Government neither prosecuted nor imposed penalties in such cases.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers continued, as did some alleged individual cases of household workers effectively held captive by their employers (*see* Sections 5 and 6.d.). The ILO Committee of Experts reported that the abuses and lack of payment of wages constitute forced labor in the agriculture sector.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits all work for payment by children under the age of 14; however, in practice the Ministry of Labor generally did not enforce child labor laws, including those pertaining to the minimum age and maximum hours for child workers, school completion requirements, and health and safety conditions for children in the workplace. Child labor was a serious problem. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for those 12 to 14 years old under various formal but poorly enforced restrictions, which have been criticized by the ILO and were considered by some to be tantamount to bondage (*see* Section 6.c.).

Approximately one in every four children between the ages of 7 and 14 was employed in some way. A 1999 ILO study estimated that approximately 70,000 children between the ages of 7 and 14 were working in cities and that approximately 300,000 children in the same age group were working in rural areas—usually to help provide for family subsistence—in uncontrolled and sometimes unhealthy conditions. The extreme poverty of many families dictated the involuntary employment of their children to survive.

In April 2001, the Inter-Institutional Commission for the Progressive Elimination of Child Labor released a 10-year “Plan for the Progressive Elimination of Child Labor” to address financial, health, education, and other needs of children and to provide incentives for poor families to keep children in school, improve governmental enforcement of labor laws, and prevent the worst forms of child labor. However, the plan had little funding. The new administration endorsed the plan, and at year's end was completing plans to eliminate child labor in its worst forms, including in mining, sugar cane harvesting, and prostitution.

In December the country completed ratification of ILO Convention 182 on the worst forms of child labor.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. Urban children sold goods, shined shoes, and assisted transport operators. Rural children often worked with parents from an early age, generally in subsistence agriculture. Children generally were not employed in factories or formal businesses but, when employed, often worked the same hours as adults. Children also worked in mines and other dangerous occupations in the informal sector. Child prostitution was a growing problem (*see* Section 5).

The NGO Defense of Children International criticized traffickers for using children under the age of 14 to transport drugs.

The traditional practice of “criadito” service persisted in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. Such work is illegal, and there are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

e. Acceptable Conditions of Work.—The Government establishes the minimum wage for the public and private sectors by supreme decree following traditional negotiation with the COB, and the wage increased in January by almost 9 percent to approximately \$57 (430 bolivianos) per month, plus bonuses and fringe benefits. The minimum wage did not provide a decent standard of living for a worker and family, and most formal sector workers earned more, although many informal sector workers earned less. Although the minimum wage fell below prevailing wages in most jobs, certain benefit calculations were pegged to it. The minimum wage did not cover members of the informal sector, who constituted the majority of the urban work force, nor did it cover farmers, who accounted for 30 percent of the working population.

Although not effectively enforced, the law establishes an 8-hour workday and a maximum workweek of 48 hours, limits women to a workday 1 hour shorter than that of men, and prohibits women from working at night (*see* Section 5). The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards were enforced poorly. Many workers died due to unsafe conditions. With support from an international donor, the Government reestablished a national tripartite committee charged with monitoring and improving occupational safety and health standards. The Labor Ministry maintained a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector were particularly poor. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, were dangerous and unhealthy. In some mines operated as cooperatives, miners earned less than \$3 (22 bolivianos) per 12-hour day. Miners in such cooperatives worked without respirators in mines where toxic gases and cancer-causing dusts abound; bought their own supplies, including dynamite; had no scheduled rest periods; and many worked underground for up to 24 hours continuously. There are no special provisions in the law defining when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refuses to work based on the individual's judgment of excessively dangerous conditions may face dismissal.

f. Trafficking in Persons.—The law prohibits trafficking in persons for the purpose of prostitution. There are no other laws that specifically address trafficking in persons, although many aspects of the problem are covered in other laws and in the Constitution. Trafficking in women and children was a problem.

There were reports of domestic trafficking in women for the purpose of prostitution. NGOs expressed continued concern that women were trafficked for prostitution.

There were credible reports that the country was a source of persons trafficked for forced labor in neighboring countries, especially Argentina, and to a lesser extent Chile and Brazil, although there were no reliable estimates available as to the extent of the problem. A small percentage of economic migrants received fraudulent information about prospective jobs in neighboring countries, which turned out to be forced labor under harsh conditions. Some of the fraud leading to involuntary servitude originated within the country.

Women and adolescents, especially from indigenous ethnic groups in the altiplano (high plains) region, were more at risk of being trafficked. Victims generally were trafficked to Argentina to work in agriculture, factories, trades, and as domestic employees; to Chile to work as domestic employees; and to Brazil to work in factories and as domestic employees.

The Government, including top immigration officials, did not facilitate, condone, or otherwise act complicitly in trafficking; however, individual low-ranking employees of various government agencies took bribes to allow various types of smuggling, including contraband and persons.

The Immigration Service is primarily responsible for combating trafficking, with the assistance of the National Police when active law enforcement investigations are necessary. The Immigration Service has responsibility for all ports of entry/exit and border crossings. There is an interagency Minor's Committee to combat trafficking in adolescents for forced labor to neighboring countries. However, the Government did not commit the resources necessary to address this problem.

The 1999 Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically outlaws trafficking in persons for the purpose of prostitution and provides for sentences of up to 12 year's imprisonment. Heavier sentences are imposed if the victim is a minor. There are also laws prohibiting the falsification of government documents, such as passports, visas, and civil registry documents. In addition, the Penal Code prohibits slavery or an "analogous state," and it is punishable with 2 to 8 years of imprisonment. The Government also cooperated with other govern-

ments to investigate and prosecute trafficking cases. There were no known prosecutions during the year. Several NGOs worked with vulnerable groups, providing assistance, incentives to education, and information about legal rights.

BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In October voters elected President Luiz Inacio Lula da Silva of the Workers Party (PT) to a 4-year term. The elections marked the fourth time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties were able to compete on the basis of fair and equal procedures. The Constitution provides for an independent judiciary; however, it was often inefficient and, especially at the state level, subject to political and economic influences.

The military was responsible for national defense and remained subject to effective civilian control, both in law and in practice. The federal police force was very small and primarily investigative. It played little role in routine law enforcement. Police forces fell primarily under the control of the states and were divided into two groups: The "civil police" were plain-clothes officers and had an investigative role, and the "military police" were uniformed police and were responsible for maintaining public order. Although the individual state governments controlled the military police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system. The state police forces committed numerous serious human rights abuses.

The country had a market-based and diversified economy and a population of approximately 175 million. The Government, which traditionally played a dominant role in shaping economic development, encouraged greater private sector participation in the economy through privatization of state enterprises, deregulation, and removal of some impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounted for 34 percent of gross domestic product (GDP), agriculture contributed 8 percent, and services accounted for 58 percent. Exports consisted of both manufactured and primary goods. Per capita GDP was approximately \$2,900 in 2001, and the economy grew by 1.5 percent. Income distribution remained highly skewed. The real average wage fell 10 percent from 1997 to 2001.

The Federal government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of some state governments was poor. State police forces (both civil and military) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in a variety of criminal activities, including killings for hire, death squad executions, extortion, kidnappings for ransom, and narcotics trafficking. Despite new powers to intervene in certain types of human rights cases granted in January, the federal police failed to act in the numerous human rights violations by state authorities. The Government established a national torture hot line for victims of torture, but it did not result in more convictions or a diminution of the problem.

Government authorities often failed to prevent violence inside prisons. The state governments did not punish most perpetrators of these abuses effectively. The separate system of military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and contributed to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions ranged from poor to extremely harsh. Prison officials often tortured and beat inmates. The judiciary had a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice remained slow and often unreliable, especially in regions where powerful economic interests influenced the local judiciary. Victims, particularly those who were suspected criminals, had difficulty in being heard by oversight bodies. Investigations of human rights abuses by police officials were often limited to internal police reviews and were not referred to the Office of the Public Prosecutor or other independent bodies for review.

Police used excessive force to disperse demonstrators on several occasions, causing serious injuries. Human rights monitors on occasion faced threats and harassment. Violence and discrimination against women, and child prostitution and abuse, remained chronic problems. Government authorities often failed adequately to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas. Discrimination

against Afro-Brazilians and violence against homosexuals were serious problems. Rural violence, including the killings of land reform and rural labor activists, persisted. Forced labor for adults and children continued. Trafficking in persons, particularly women and children for the purpose of prostitution, persisted. Brazil was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

A new National Human Rights Program focused on social, as well as cultural and economic, rights. Congress ratified into law a presidential decree giving the federal police authority to intervene at the state level in certain human rights cases and in kidnappings that were politically motivated, but the federal police did not use this authority.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—Extrajudicial killings committed by state police (military and civil) remained a serious problem throughout the country. Uniformed police summarily executed suspected criminals and then filed false reports that the deceased were resisting arrest. There were numerous killings by police. Statistics released by the Sao Paulo State Secretary for Security indicated that 610 people were killed during the year by Sao Paulo police (civil and military); statistics released by the Sao Paulo police ombudsman indicated that 825 people were killed by Sao Paulo police during the year. The ombudsman's figures included killings by off-duty police. In April 2001, the U.N. Special Rapporteur on Torture noted that torture by jail and prison officials often resulted in death (*see* Section 1.c.). Harsh prison conditions and prison riots continued to lead to the death of inmates (*see* Section 1.c.). Police also killed street children, indigenous persons, and labor activists (*see* Sections 5 and 6.a.). Death squads and other criminal groups, many of which included police as members, committed other killings. Numerous credible reports indicated the involvement of state police officials in crime, including revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (*see* Section 1.e.). The authorities' failure to investigate, prosecute, and punish police who committed such acts perpetuated a climate of impunity that encouraged human rights abuses. Many persons continued to be killed in disputes over land ownership and usage.

An April 2001 report by human rights organizations stated that law enforcement authorities summarily executed approximately 2,000 persons each year.

According to the police ombudswoman in Rio de Janeiro, in the first 9 months of the year, citizens registered complaints for 23 police homicides in the state, believed to be only a small fraction of the actual total of police homicides. A human rights nongovernmental organization (NGO) estimated that the number of police homicides during the first 9 months of the year exceeded the number officially reported for the same period of 2000 (312). The Rio de Janeiro State government halted release of data on police homicides after September 2000. Research conducted by the Institute for Religious Studies (ISER) in the mid-1990s suggested that during that period the level of police homicides was double the official number reported. The ISER report cited 40 cases in Rio de Janeiro that clearly demonstrated execution-style deaths, in which police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined by ISER, the victims were shot in the back.

In the first 4 months of the year, the Sao Paulo ombudsman received 128 complaints of police homicide, 62 complaints of disciplinary infractions, and 44 complaints of poor service. According to the Ombudsman, in the first 6 months of the year, 73 cases of police abuse were presented to the Public Prosecutor, and action was taken on only 12 of the cases. The Sao Paulo State Secretary for Security reported that Sao Paulo police on average killed 59 civilians monthly, a rate 33 percent higher than in 2001, and the highest figure since statistics on police killings began to be kept in 1995; statistics released by the Sao Paulo police ombudsman indicated that the monthly average was 69. State Secretary of Security figures indicated that during the year 59 Sao Paulo policemen were killed and 537 injured in the line of duty. According to a domestic NGO, international human rights observers, and diplomats, killing by police was a national problem, not limited to the largest cities or states.

According to press reports, in February in Campo Grande, military police officer Guaracy Arede shot and killed Alessandra Luisa de Carvalho Marques who was riding with a friend in a passenger van. Arede, described as drunk, entered the vehicle and molested Carvalho Marques who then sought to exit the van. In front of

numerous witnesses, Arede shot Carvalho Marques once in the head and once in the neck as she fled from the vehicle. Police arrested Arede, and the trial was pending at year's end.

In February in Campos, Sao Paulo, highway patrolman Jose Vargas de Oliveira was accused of shooting to death a truck driver who wouldn't pay a "tip." Oliveira was later arrested when he surrendered to the Federal Highway Police; there was no further information regarding action in the case.

In February Rio de Janeiro taxi driver Sergio Luiz Couto was shot several times and killed the day before he was to give a deposition denouncing military police officials. Seven months prior to his death, Couto had been kidnaped by a team of public security officers who demanded a ransom of approximately \$57,140 (200,000 reais). For his involvement in the kidnaping, police Major Dilo Pereira Soares Junior was imprisoned for 31 days. Couto's wife stated that her husband had received multiple threats from an officer with the military police prior to his murder. There was no indication of new developments in the case at year's end.

On March 5, Sao Paulo police killed 12 members of the criminal faction and prison gang First Command of the Capital (known as the PCC) in a highway shootout. The police reportedly suspected that the group planned a prison break or robbery. Over 100 military police mounted a roadblock near the town of Sorocaba. The 17 suspects, traveling in 6 different vehicles including a bus, opened fire and attempted to flee. Five suspects escaped but were later captured. The Sao Paulo police ombudsman's advisor stated that marks on the bodies indicated that excessive force had also been employed.

Sao Paulo State Secretary of Public Security Saulo de Castro Abreu Filho expressed regret over the deaths but stated that this "war operation" was "well carried out." However, Sao Paulo Vice Mayor Helio Bicudo—relying on the findings of an independent medical examiner—contended that the operation was "an execution." Bicudo testified about the case before the Organization of American States' Inter-American Commission on Human Rights (IACHR) in October. In its response, the Government indicated that the facts of the case were still under investigation. The IACHR accepted the case for inquiry. The civil and military police each opened investigations into the case; by year's end, no determination had been made on whether to charge any police officials in connection with the incident.

In April in Baixada Santista, Sao Paulo, military police killed five boys and a bar owner while searching for a youth who stole a sergeant's weapon. Witnesses asserted that the police entered a bar looking for the "thief," then stole wallets and forced the patrons to lie on the floor. The bar owner refused and was shot twice and killed along with five youths who were also present.

In May police antikidnaping investigators killed 56-year-old Jorge Jose Martins in his home in Campinas, Sao Paulo. Police claimed that Martins fired first, but Martins' family asserted that he was executed. The Sao Paulo police ombudsman endorsed the family's version and demanded an investigation. At year's end, a police officer had been charged but was free while the trial was pending. In the interim, the officer continued his duties and received a promotion.

Lack of accountability and an inefficient criminal justice system allowed police impunity to continue. All crimes less serious than intentional homicide committed by uniformed police officers against civilians remained in the military justice system. Long delays allowed many cases to expire due to statutes of limitations (*see* Section 1.e.). In 2000 the military justice system processed 527 cases.

The 1996 "Bicudo" Law provides civil courts with jurisdiction over serious crimes committed by uniformed police officers, allowing civil prosecutors to review the most egregious criminal cases while the police themselves review less prominent cases. According to human rights activists, the law had marginal success since it applies only to an intentional killing by police. Almost without exception, police investigators concluded that suspects were killed while resisting arrest, and thus the deaths were justified.

The Sao Paulo police ombudsman convinced some judges to review more carefully the circumstances surrounding the deaths of civilians by police. During the year, the ombudsman appealed to judges to consider three factors: 1) the crime alleged, 2) the alleged resistance of the suspect to arrest, and 3) the possible crime committed by police in killing the suspect.

In October the Sao Paulo police ombudsman protested the conclusion of an internal police investigation regarding the 2001 killing by five civil police of four individuals suspected of involvement in the murder of the mayor of Caraguatatuba, Sao Paulo. According to press reports, the policemen claimed they shot the suspects in self-defense while trying to arrest them. However, the ombudsman alleged that the investigation suggested the case should have been sent to a civilian prosecutor to review evidence of intentional homicide by the police. The ombudsman indicated he

would review the case to ascertain whether the police actually executed the suspects. The case has been referred to the public prosecutor, and an investigation was opened; by year's end no determination had been made on whether to file charges against the policemen involved.

In October the case of retired police Colonel Ubiratan Guimaraes—the highest ranking policeman to face a civilian jury under the Bicudo law—was complicated when Guimaraes was elected to a 4-year term in the Sao Paulo State Legislative Assembly. Guimaraes had been convicted of murder in 2001 for his involvement in the 1992 Carandiru prison rebellion in which 111 prisoners were killed (*see* Section 1.c.). He was sentenced to a 632-year prison term, although under the Constitution his prison term would be limited to 30 years. Guimaraes appealed his conviction and was subsequently released pending resolution of the appeal. The other 85 officers accused of involvement in the Carandiru massacre were still awaiting trial. While the statute of limitations has expired for the charges of torture and beatings, the officers can still be tried for murder. All of the officers were free awaiting trial.

In July the Sao Paulo press reported that the 40-member Group for Repression of Crimes of Intolerance (GRADI), a military police intelligence network directly subordinate to the Secretary of Public Security, had illegally recruited prisoners to infiltrate PCC cells on three separate occasions. In the 9 months between July 2001 and March 2002, the 3 GRADI infiltration operations reportedly resulted in 7 arrests and 22 deaths, including 1 informant. The dead informant, 22-year-old Fernando Henrique Rodrigues Batista, was allegedly killed in July 2001 by the same police who recruited him.

Human rights activists and some within the judiciary compared GRADI to the police “death squads” that operated in the 1970s. The police ombudsman reported that he had evidence linking 21 homicides to GRADI; so far no charges have been brought against GRADI officers. The Sao Paulo Public Prosecutor ordered an inquiry into these allegations, as did the Congress’ Human Rights Commission; however, in an official statement, the Sao Paulo Secretary of Public Security defended GRADI’s actions.

In October in the coastal town of Garuja, two members of the Sao Paulo uniformed police were arrested for the October murders of two motorcyclists detained after a pursuit, 17-year-old Anderson do Carmo and 20-year-old Celso Giolelli Malgahaes Junior. An eyewitness reported that the policemen placed the youths in the back of their vehicle and drove away. The following morning, their bullet-ridden bodies were found in a garbage dump. Corporal Mauricio Miranda and Private Silvio Ricardo Monteiro Batista were arrested and were being tried for homicide; they remained in custody pending the conclusion of the case.

As of November, no police officers were charged in the 2000 killing of a member of the Landless Movement (MST) during a confrontation between protesters and uniformed police in Curitiba, Parana. An internal police investigation concluded that the police had not committed a crime and that the police were justified in using their weapons in self-defense after the marchers failed to comply with an order to disperse.

In 2000 the Sao Paulo Secretary of Security created a Special Commission to curb excessive use of police force and required police in Sao Paulo who kill a suspect to complete within 24 hours a detailed report explaining why lethal force was used. According to the Sao Paulo ombudsman, the police did not fully comply with this regulation: Many filed no report while others filed incomplete or inaccurate reports.

Two military police were convicted in the August 2001 murder of Roberto Angelo de Souza in Canoas, Rio Grande do Sul. Each received the minimum penalty of 6 years’ incarceration, and they were expelled from the police force.

In the case of Thomas Feltes Engel, killed in Sao Leopoldo, Rio Grande do Sul, in September 2001, prosecutors were seeking the conviction of a military policeman for homicide.

In the September 2001 case of two Sao Paulo military police accused of murdering Sidney de Lima Advento, the accused officers provided depositions, but the case had not come to trial by year’s end.

No further information was available concerning reports that in 2000, a local police officer was arrested near Boa Vista, Roraima, on the charge that he had participated in the killing of seven adolescents. The case was believed to be inactive.

In 2001 a court convicted 5 and acquitted 19 police officers (of 31 charged with participation) in the 1993 massacre of 21 residents of the Vigario Geral neighborhood of Rio de Janeiro. At year’s end, four officers still awaited trial. None of the victims’ families received compensation from the Government.

The use of torture by police sometimes led to the death of the victims (*see* Section 1.c.).

Harsh and life-threatening prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to a number of deaths in prisons. Prison homicides, due to both prisoner violence and action by authorities during rebellions, continued during the year, but official statistics were unavailable.

No further information was available in the case of the director of security and discipline of Andradina Penitentiary in Sao Paulo State charged with triple homicide in the February 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

Police killings of street children continued (*see* Section 5).

By year's end, no arrests had been made in the case of two Truka indigenous persons allegedly murdered by state police in January 2001 in Pernambuco.

No progress was reported in the case of Xucuru leader Francisco de Assis Santana, murdered in August 2001 in Pernambuco while en route to a meeting with the National Indian Foundation (FUNAI) to complain about encroachment on indigenous lands.

No information was available as to the date of a possible new trial in the case of a landowner accused of ordering the 1983 killing of Guarani land activist Marcal Tupa-I. In April 2001, the Supreme Court overturned a verdict of innocence in the case.

Several labor activists were killed during the year (*see* Section 6.a.).

By year's end, two mayors and two other persons had been indicted in the September 2001 killing of labor leader and city councilman Carlos "Gato" Alberto Santos de Oliveira in Sergipe State. Three witnesses interviewed by prosecutors received police protection.

According to public security officials, death squads in which the police are involved continued to operate. Human rights groups reported the existence of organized death squads linked to the police forces that target suspected criminals and persons considered "undesirable"—such as street children—in almost every state. In 2000 Amnesty International (AI) reported that police death squads remained active in Mato Grosso do Sul. A 1999 report on death squads by the Human Rights Committee of the Federal Chamber of Deputies found that death squad activity with police involvement also existed in several other states, including Bahia, Rio Grande do Norte, Mato Grosso, Amazonas, Para, Paraiba, Ceara, Espirito Santo, and Acre. The report did indicate that, with the exception of Bahia, death squad activity was declining. However, human rights groups and the local press reported that murders by death squads continued, although no examples were cited.

According to investigations by human rights committees in the Bahia legislature and the lower house of the Congress, in Bahia State alone death squads murdered 123 persons from January to August, compared with 321 persons in all of 2001. These numbers represented about 10 percent of all adolescent and young adult murder victims in the state. Most victims were poor and black, and in many cases they were tortured before being killed. However, Bahia's public security secretary, testifying in a Justice Ministry investigation, denied the existence of death squads in the state.

In April and May 2001, the authorities arrested eight uniformed policemen, an investigative policeman, and two firemen suspected of participating in death squad killings in Rio de Janeiro State. Three of the suspects were accused of the April 2001 murder of 21-year-old Leonardo Marinho, son of another fireman. There was no further information on the case.

In Espirito Santo State, a 1999 state police investigation and a state parliamentary committee of inquiry initially reported that an informal organization called the "Squad le Cocq" involving police, judicial, and elected authorities—including president of the State Assembly Jose Carlos Gratz—was responsible for the vast majority of organized crime in the state. However, a yearlong investigation by the parliamentary committee failed to prove any of the accusations against Gratz. The legislator was reelected in October, but an election court judge annulled the result on grounds that Gratz had committed illegal acts during his campaign. Press reports indicated continuing activity by organized crime in Espirito Santo. Human rights activists, NGOs, and politicians urged the Federal government to intervene, and late in the year a federal-state task force began investigations to root out organized crime in the state.

Many persons have been killed in recent years in conflicts involving disputes over land ownership and usage. The MST continued its campaign of legal occupation of lands identified as unproductive and illegal occupation of land not so designated. The MST also continued its occupation of public buildings. MST activists often used confrontational and violent tactics and destroyed private property during some occupations. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, reported that at least 16 rural

laborers were murdered in land conflicts. Moreover, according to CPT, at least 73 persons received death threats as a result of land disputes.

A 2000 CPT report concluded that the impunity enjoyed by landed interests as a result of the “fragile” justice system and the collusion of local political interests continued to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also noted that the tactics of the land reform movement led to a self-perpetuating cycle in the past several years, in which increased confrontation and tension led to increased government attention, encouraging in turn more land occupations.

No arrests or prosecutions were reported in the 2001 killings of two leaders of landless movements in the State of Mato Grosso do Sul: In April 2001, Jose Rafael do Nascimento, founder and leader of the Movement of Rural Workers (MTR), was killed by civil police, who alleged he was shot while resisting arrest in connection with homicides in Sao Paulo, and in June 2001, Valdecir Padilha, a local leader of the MST, was killed by an unidentified gunman. There was no further information available on either case.

There were no known developments in the killings in 2000 of Jose Dutra da Costa, a rural activist in Para State and Manuel Souza Neto, a leader of the MST. Landowners were suspected of involvement in both cases.

Military police involved in the 1996 massacre of 19 MST protesters at Eldorado dos Carajas, Para State, went on trial in April. Of the 146 police tried, 144 were absolved, and 2 were convicted. Major Jose Oliveira was sentenced to 158 years in prison, and Lieutenant Colonel Mario Pantoja to 228 years. Both appealed the verdict and remained free. AI criticized the decision, citing numerous errors in the trial.

Violence committed against children remained a serious problem. A UNESCO study reported that 75 percent of deaths of adolescents between the ages of 15 to 19 resulted from violence.

b. Disappearance.—Police were implicated in kidnappings for ransom. Most observers believed that uniformed and civil police involvement in criminal activity, including kidnapping and extortion, was widespread. (see Sections 1.a. and 1.c.).

On January 24, then-President Cardoso issued a temporary executive decree authorizing the federal police to intervene at the state level in certain human rights cases, including kidnappings. The decree became law on May 8; however, the federal police were not known to have used this new authority during the year.

A 1995 law assigned government responsibility for the deaths of political activists who “disappeared” during the military regime while in custody and obligated the Government to pay indemnities of between \$74,000 and \$110,000 (200,000 to 300,000 reais) to each of the families. In 1997 President Cardoso signed a decree awarding reparations to the families of 43 such persons. As of August, 280 out of 366 requesters had received indemnities. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities. In October Rio de Janeiro State created a legislative commission to review requests for state indemnities for persons who disappeared or were tortured under the military regime. The indemnities, which were based on life expectancy, could range from about \$28,570 to \$42,860 (100,000 to 150,000 reais).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, torture by police and prison guards remained a serious and widespread problem.

In a 2001 report on torture in jails and prisons, U.N. Special Rapporteur on Torture Sir Nigel Rodley concluded that torture was still widespread, systematic, and often deadly (see Section 1.a.). Rodley based his report primarily on visits to prisons in five different states during 2000. Torture was reportedly practiced during every phase of detention: Initial questioning, temporary detention, and long-term detention. Rodley noted that the most common forms of torture were electric shocks, beatings, and threats. Usually the torture victims were poor and uneducated. According to Rodley, police and prison officials usually were inadequately trained and unfamiliar with proper investigative procedures. In response the Government undertook to implement the report’s recommendations but also noted that the Constitution restrains the Federal government from controlling the actions of state governments and police authorities.

Several human rights groups, including AI and Justica Global, issued reports during the year on torture. The AI report noted that systematic torture and maltreatment continued throughout the justice system in 2001, often commencing at the initial moment of detention. The press also claimed that GRADI police tortured prisoners.

In March two prisoners—one convicted of homicide, the other of theft—were allegedly tortured. With a judge's consent, GRADI police officers had removed the two prisoners from Sao Paulo's Carandiru prison to infiltrate a PCC gang that was planning a robbery near Guaruja, on the Sao Paulo coast. During the operation, the two prisoners attempted to escape. Police recaptured the prisoners and allegedly beat them, returning the two to prison the following day with multiple cuts and other injuries.

In July Osmarilton Meneses dos Santos was tortured and badly beaten for 3 days by civil police in Bahia State. Allegedly, the police were seeking a false confession for the robbery of a motorcycle. The victim later reported the incident to the legislature's Commission on Human Rights. Despite promises by the governor for quick action, the officers were only moved to new stations.

The police appeared to benefit from a high level of impunity in cases of torture. Often the police themselves were responsible for investigating cases of torture carried out by fellow policemen. The problem remained most pervasive at the state level. The Government began a "National Campaign to Combat Torture" to sensitize all segments of civil society—judges, attorneys, and legislators, as well as the general public—to the rights of prisoners. Judges, public prosecutors, and attorneys were expected to receive training in investigating complaints of torture. The campaign also included media advertisements that torture is a crime and a nationwide toll-free number to receive complaints.

The NGO National Movement for Human Rights, which administers the Ministry of Justice's torture hot line reported it received 873 calls alleging torture or inhuman or degrading treatment during the year. Among metropolitan capitals, Sao Paulo had the highest percentage of complaints. In 51 percent of the calls alleging torture or inhuman or degrading treatment, the alleged perpetrators were public agents—198 were civil police and 240 were uniformed police. States with the highest number of allegations of mistreatment at the hands of civil and uniformed police were Sao Paulo (175), Minas Gerais (129), Bahia (87), Para (88) and Rio (65). Sixty-nine percent of alleged victims were men, 21 percent were women, and 10 percent were juveniles. Actual incidents of torture may be significantly higher than use of the hot line indicated. A 2002 *Justica Global* report, citing data from two other human rights groups working in Sao Paulo State prisons, reported 1,631 cases of torture in the state's prisons.

While agreeing that the hot line was a positive step, human rights activists cautioned that it did not attack the heart of the mistreatment problem. The activists urged that attorneys, prosecutors, and judges receive training on how to investigate allegations of torture and bring offenders to justice.

Long delays in the special police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (*see* Section 1.e.).

The police investigation in the February 2001 torture case of Wander Cosme Carneiro (whom Sao Paulo civil police were accused of torturing while trying to obtain a murder confession) was still underway. The report on the police investigation in the case of Marcos Puga—allegedly beaten by Sao Paulo police in 2000—was referred to the court in August for a determination of whether to bring criminal charges against the police officials involved in the incident; a separate disciplinary inquiry remained underway. No new information was available on the case of two alleged cigarette smugglers in Foz de Iguacu reportedly beaten by two police officers.

At year's end, a local court was still conducting pretrial hearings of witnesses regarding the allegations that in January 2001 police in Minas Gerais beat and tortured Alexandre de Oliveira into falsely confessing that he had raped his infant daughter.

There was no further progress by year's end in the case of two alleged shoplifters reportedly tortured in January 2001 by Carrefour department store security guards and local drug traffickers.

Police violence against homosexuals continued (*see* Section 5). Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. Police routinely extorted money from transvestites and often beat or killed those who failed to cooperate. Several NGOs documented the existence of skinhead, neo-Nazi, and "machista" (homophobic) gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Salvador, Belo Horizonte, and Brasilia (*see* Section 5). In some cases, these gangs allegedly included police officers.

Human rights groups criticized the alleged sexual abuse of members of indigenous groups by army units stationed in Roraima State (*see* Section 5).

The National Secretariat for Human Rights sponsored human rights training programs throughout the country in cooperation with federal and state entities and na-

tional and international organizations. The Secretariat administered human rights training for policemen in cooperation with AI in 10 states. Human rights groups maintained that the effect of these programs was limited. However, human rights activists in many states reported willingness of police authorities to address their concerns and to deal with problems brought to their attention.

Respect for human rights and sensitivity to the problems of minorities and the poor were included in police training in Rio de Janeiro. An Institute for Public Security, created in 2000 to reform police organization, recruitment, and training in Rio de Janeiro, made only limited progress in improving human rights performance of the police. A number of states have established ombudsmen (*see* Section 4).

In December the International Committee of the Red Cross (ICRC) concluded its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. Military police from several states were trained in basic techniques, including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force.

Sao Paulo's community policing initiative provided training to about one-fifth of the city's uniformed police force under the state initiative. Pursuant to the initiative, high-ranking police officials met with citizens' consultative groups weekly. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

Prison conditions throughout the country ranged from poor to extremely harsh and life threatening. Penal authorities in those states with the highest prison populations often did not separate young offenders from adults and petty offenders from violent criminals. Prison riots were frequent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (*see* Section 1.a.). The poor working conditions for prison guards also encouraged corruption. According to an official in Sao Paulo State's School of Penitentiary Administration, however, guards were investigated more aggressively and disciplined more effectively. This official also noted the 2- to 5-year period required to fire corrupt police and prison guards had been cut to 8 months.

Sao Paulo State prison officials took steps to improve the quality of the guard force, including training over 7,000 guards during the year, with instruction in human rights, infectious diseases, drug addiction, and ethics. The Sao Paulo State also attempted to improve conditions by building more prisons and creating committees of community leaders to monitor prison conditions. Sao Paulo State—like the states of Parana and Rio Grande do Sul—had a prison ombudsman program.

Severe overcrowding in prisons and police detention centers was prevalent and was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, Maranhao, Mato Grosso do Sul, Minas Gerais, Parana, and Pernambuco. A national prison census completed in November 2001 indicated that there were approximately 233,000 prisoners in a prison system designed to accommodate 167,000 prisoners. Construction of penitentiaries continued but was inadequate to alleviate overcrowding.

Sao Paulo State completed 10 model prisons, or "resocialization centers," and 5 more were under construction, each designed to hold 210 prisoners. In addition to the resocialization centers, 39 penitentiaries were under construction in Sao Paulo State during the year. Seven were operational at year's end.

Overcrowding was an even greater problem in police jails than in penitentiaries. The jails were intended to be temporary holding facilities; however, due to pretrial delays and overcrowding in state penitentiaries, almost 53,000 of the 229,000 prisoners resided in local lockups, awaiting either trial or transfer to state penitentiaries. According to Sao Paulo State's School of Penitentiary Administration, approximately 14,000 persons awaiting trial were incarcerated in the state's local police stations. Another 12,500 who had been tried and convicted were awaiting transfer to permanent facilities.

Overcrowding, poor conditions, prisoner riots, and accusations of sexual abuse and torture pervaded Sao Paulo's juvenile detention centers, known as FEBEM. Early in the year, Maria Luiza Granado was appointed to oversee Sao Paulo's 57 FEBEM facilities—the sixth FEBEM president in just over 2 years.

The number of inmate rebellions decreased—a trend that the Public Prosecutor for Children and Youth attributed to greater efforts by the authorities to maintain peace during an election year. According to the Public Prosecutor, the number of complaints of torture against juvenile inmates in Sao Paulo increased to 93 in the first half of the year.

Construction of new FEBEM facilities continued at a slow pace. After prison riots in 1999, Sao Paulo State undertook to build 20 new FEBEM facilities; 10 new facilities were completed and 8 were renovated by year's end.

On January 2, Fernando Dutra Pinto, the convicted kidnaper of the daughter of a television personality, died in the Belem Provisionary Detention Center, in Sao Paulo. An investigation by a University of Sao Paulo pathologist found that Pinto—who had been attacked by prison guards on December 10, 2001—had suffered a cut that developed into a generalized infection. Left untreated, the wound contributed to Pinto's death. The four guards suspected of having carried out the attack were not relieved of duty but were transferred to other prisons. The Civil Police initiated an administrative inquiry into the case. By year's end, no one had been tried for criminal misconduct.

In the first half of the year, there were four new accusations of torture at FEBEM's Franco da Rocha site. One youth alleged the existence of a torture room. The Brazilian Bar Association (OAB) cited 100 percent overcrowding in the facility, leading to "an extraordinary state of tension." In March two of the directors of the Franco da Rocha complex were relieved of duty, leading to a 1-day strike by over 90 percent of the guard force.

A July rebellion at the Tatuape FEBEM facility resulted in a number of injuries but no deaths.

The Public Prosecutor for Children and Youth acknowledged that FEBEM's Unit 27 of the Raposo Tavares complex had been the subject of numerous complaints of torture. In November 2001, a judge ordered that 16 guards and 4 directors of the facility be criminally prosecuted for torture. Despite the court order, the accused remained on duty at the complex. A subsequent accusation of torture was substantiated and led to the removal of one of the directors in July.

FEBEM's Parelheiros facility was closed in July at the orders of both a judge and the governor of Sao Paulo. NGOs and public prosecutors had protested that juveniles should not be housed in the converted adult maximum-security prison.

There was no new information on the case of the May 2001 rebellion at the Tatuape FEBEM facility. Following the rebellion, guards allegedly beat 78 inmates.

In December a UNICEF Project Coordinator criticized the FEBEM incarceration system in a press interview. In response to an AI criticism of the Sao Paulo government, the FEBEM president stated that 600 guards were relieved in 2001 based on abuse allegations, and that all juveniles were treated in accordance with the law. In May the State of Sao Paulo reduced the number of public defenders assigned to FEBEM from 13 to 7. AI expressed its concern over this further reduction in resources.

In November the IACHR announced plans to investigate systematic human rights abuses in FEBEM institutions in response to eight specific cases in which the Sao Paulo State Justice Tribunal had halted investigations into mistreatment of inmates on the grounds that they prejudiced "public security." FEBEM responded that such an investigation would be irrelevant since the facilities already had been closed.

Prisons generally did not provide adequate protection against violence inflicted by inmates on one another. In April three inmates, two of whom were 18 years old, were decapitated by fellow inmates in the Praia Grande Jail in Santos, Sao Paulo. One was also dismembered. In the confusion that followed, 10 prisoners escaped. At the time, the prison, with a capacity of 512, held 788 prisoners.

In September Sao Paulo State closed the Carandiru prison complex, the scene of a 1992 riot in which state police killed 111 prisoners and where 16 inmates were killed in a 2001 riot. Carandiru's approximately 7,000 inmates were moved to smaller prisons throughout the state and other parts of the country.

Although there was no official count, there were numerous prison riots and rebellions during the year.

In January a prison rebellion provoked by warring factions left 45 dead in the White Bear Penitentiary in Rondonia State. Most of the deaths appeared to have resulted from prisoner-on-prisoner violence, although NGOs attributed some of the deaths to use of excessive force by penal authorities.

Prisoners also were subjected to extremely unhealthy conditions. Scabies and tuberculosis—diseases uncommon in the general population—were widespread in Sao Paulo prisons, as were HIV/AIDS and even leprosy. In December 2001, the Ministry of Justice estimated that 10 to 20 percent of the national prison population was HIV positive. Denial of first aid and other medical care sometimes was used as a form of punishment. According to the U.N. Committee on Torture's report, homosexuals and patients with AIDS were discriminated against in prisons and often confined in separate cells.

The judiciary's ineffective use of alternative sentencing contributed to the problem of overcrowding. Only 10 states used alternative punishments, and only 3 percent of convicted prisoners received such a sentence.

Authorities attempted to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often were also used to house convicted criminals.

The States of Rio de Janeiro and Sao Paulo provided separate prison facilities for women; however, in those states, there were no facilities for women that had only women guards and wardens. Elsewhere women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors were common. In Rio de Janeiro State, there were only two police districts in which women were held in gender-segregated short-term jail facilities. Women's facilities in Sao Paulo's penitentiary system were even more overcrowded than those for men. There were 1,971 women in facilities built to accommodate 1,700 female inmates.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention and the Government generally observed these prohibitions; however, police continued at times to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

Human rights observers alleged that civil and uniformed police regularly detained persons illegally to extort money or other favors.

The authorities generally respected the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates were detained beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. In general detainees were allowed prompt access to family members or a lawyer, but there were cases when detainees—typically poor and uneducated—were held longer than the provisional period. Groups that assisted street children claimed that the police sometimes detained youths without judicial orders or held them incommunicado.

In criminal cases, defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants for all but the most serious crimes had the right to a bail hearing.

The Constitution prohibits forced exile, and it was not practiced.

e. Denial of Fair Public Trial.—The judiciary is an independent branch of government; however, it was inefficient, often subject to political and economic influences—especially at the state level—and lacked adequate resources. Judicial officials were often poorly trained. In many instances, poorer, less educated citizens made limited use of the appeals process that might ensure their rights to a fair trial.

The judicial system with the federal Supreme Court at its apex included courts of first instance and appeals courts. States organized their own judicial systems but must adhere to the basic principles in the Constitution. Specialized courts dealt with police, labor, elections, juveniles, and family matters.

Based on the police investigation that led to the formal charges, prosecutors prepared an indictment for the review of a judge who determined if the indictment met the legal requirements to bring the accused to trial. A jury process tried those accused of capital crimes, including attempted homicide. A judge tried lesser crimes. Defendants had the right to appeal all convictions to state superior courts. They had the further right to appeal state court decisions to both the federal Supreme Court on constitutional grounds and to the federal Superior Court to contest whether a decision was consistent with the decision of a court in another state or infringing on federal law. All defendants sentenced to 20 years in prison or more had the automatic right to a retrial.

Special police courts composed of four ranking state uniformed police officials and one civilian judge had jurisdiction over state uniformed police (except those charged with homicide). Most police accused of crimes appeared before these courts (which are separate from the courts-martial of the armed forces, except for the final appeals court). Within these courts, conviction was often the exception rather than the rule.

With too few judges for the caseload, there were severe backlogs, and human rights groups noted a lack of willingness by police to investigate fellow officers. Long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations.

The law provides civilian courts with jurisdiction over cases in which uniformed police officers were accused of homicide (*see* Section 1.a.). However, except for the most egregious cases, the internal police investigation determined whether the homicide was intentional, while the police tribunal decided whether to forward the case to a civilian court for trial. As a result, few cases were referred to the civilian courts. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the court's ability to ensure fair and expeditious trials.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (*see* Sections 1.a. and 1.c.).

Defendants were entitled to counsel and must be made fully aware of the charges against them. There was no presumption of innocence. According to the Ministry of Justice, approximately 85 percent of prisoners could not afford an attorney. In such cases, the court must provide one at public expense; the law requires courts to appoint private attorneys to represent poor defendants when public defenders are unavailable; however, often no effective defense was provided.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions—particularly in rural areas—the judiciary generally was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill squatters or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (*see* Section 1.a.).

Low pay and exacting competitive examinations that could eliminate as many as 90 percent of the applicants made it difficult to fill vacancies on the bench. The law requires that trials be held within a set period of time from the date of the crime; however, due to the backlog, old cases frequently were dismissed unheard. This practice reportedly encouraged corrupt judges to delay certain cases purposely so that they could eventually be dismissed. Defense counsel often delayed cases in the hope that an appeals court might render a favorable opinion, and because they were paid according to the amount of time that they spend on a case.

According to one observer, courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (*see* Section 5).

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were in effect political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; however, there were reports that the police conducted searches without a warrant (*see* Section 1.c.). Wiretaps authorized by judicial authority were permitted.

The inviolability of private correspondence generally was respected.

In midyear a human rights NGO and the press reported that armed drug traffickers in several slums in Rio de Janeiro forced families out of their homes if they refused to comply with traffickers' demands or tolerate illegal drug sales in the neighborhood. In one case, traffickers allegedly murdered a 15-year-old girl in her home and caused the rest of her family to flee. In November the NGO reported that an average of 33 families per week were displaced in this manner. According to the NGO and press reports, police often assisted the families in moving, but failed to provide protection that would enable them to remain in their homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution prohibits all forms of censorship and provides for freedom of speech and a free press, and the authorities generally respected these rights in practice; however, there were several attacks against journalists during the year.

Privately owned newspapers, magazines, and a growing number of on-line electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Most radio and television stations were owned privately; however, the Government had licensing authority, and politicians frequently obtained licenses. The Liberal Party controlled a national network of radio and television stations. Current or former congressional representatives, some of whom were members of the committee that oversees communications, owned many television and radio stations, as well as local newspapers. It was un-

known how many media outlets were controlled indirectly by politicians, since concessions often were registered in the names of family members or friends.

Penalties for libel under the 1967 Press Law include imprisonment, which rarely was imposed. The National Newspaper Association (ANJ) pressed for an updated press law, noting that the existing law does not establish criteria for calculating maximum fines for libel. The ANJ and newspaper owners throughout the country complained about huge fines and jail terms imposed against newspapers for “moral damage” that appeared aimed at crippling news organizations.

Complex electoral campaign laws regulate the broadcast media and apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and nonappeal provisions of the regulations are designed to enforce discipline and ensure that remedies are applied in a timely manner. Media and free speech advocates generally accepted the manner in which the campaign laws were enforced.

Foreign publications were distributed widely; prior review of films, plays, and radio and television programming was used only to determine a suitable viewing age.

The National Federation of Journalists (FENAJ) and the ANJ documented a number of violent attacks, including killings and threats, against journalists. The August 2001 ANJ report—covering the period August 2000 through July 2001—listed seven cases of physical aggression against journalists (including one case that involved Brazilian journalists in Paraguay). The ANJ report noted that seven journalists were murdered since 1995 and that none of the crimes had been solved. The ANJ further stated that impunity for crimes committed against journalists in conjunction with the inappropriate and inconsistent application of the Press Law impeded the functioning of a free press.

In October the NGO Reporters without Borders denounced the 1998 murder of journalist Manoel Leal in Itabuna, Bahia, as an attack on press freedom and called on the authorities to revive the stalled investigation of the case.

In September Savio Brandao, owner of the *Folha do Estado* newspaper in Mato Grosso State, was killed at close range, allegedly by hit men. The newspaper had been carrying stories on organized crime in the state. A police chief characterized the murder as “a carefully executed crime.” In October former uniformed police officers Hercules Araujo Agostinho and Celio de Souza were arrested for the crime and at year’s end were awaiting trial. The Minister of Justice promised federal assistance in the form of a federal police antiorganized crime taskforce to assist the State of Mato Grosso’s investigation.

In October journalist Felipe Santolia—who had published articles about corruption in Piauí State and alleged that congressmen in the state had bought votes—was tied and nailed to a tree in a mock crucifixion but survived.

On October 23, a regional election tribunal judge in Brasília ordered the seizure of all copies of the next day’s edition of the newspaper *Correio Braziliense* if it printed the transcript of the governor’s phone conversations that reportedly implicated the governor in an illegal land deal. The judge acted at the request of the governor and the Frente Brasília Solidaria, which backed him in the election. The judge’s order was overturned by the Supreme Election Tribunal.

In June prominent television journalist Tim Lopes was murdered in Rio de Janeiro; seven persons accused of the crime were arrested in September, and their trial was pending at year’s end. A human rights NGO reported in November that, as a result of this case, newspaper editors had instructed their reporters to be more cautious in pursuing their investigations and to stay out of high risk areas. According to the Inter-American Press Association, Lopes was the fourth journalist murdered in Rio de Janeiro State since 1994.

There were no further developments in the case of the August 2001 murder of journalist Mario Coelho de Almeida Filho in Rio de Janeiro. Coelho was killed the evening before he was to testify in a criminal defamation lawsuit involving a local politician.

A domestic television journalist, who in August 2001 received repeated implied death threats after her series of investigative reports on drug trafficking in Rio de Janeiro’s shantytowns, remained in hiding after failing to receive the police protection she had requested.

The Government did not impose restrictions on the use of the Internet; however, federal and state police began to monitor the Internet to detect on-line recruitment by sex traffickers (see Section 6.f.).

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

Permits were not required for outdoor political or labor meetings, and such meetings occurred frequently.

On March 25, approximately 150 members of the MST invaded Fazenda Santa Maria, the farm of a personal friend and business partner of then-President Cardoso. The invasion came in retaliation for the arrest of 16 MST leaders during the March 23–24 occupation of President Cardoso's farm.

In 2000 police injured more than 30 persons while using bullets and tear gas to disrupt a march protesting ceremonies marking the quincentennial of the arrival of the Portuguese. Indigenous leaders filed suit against the police for damages and at year's end continued to press the Minister of Justice to accelerate a decision in the case.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. In the 2000 census approximately 74 percent of the population identified themselves as Roman Catholic; however, there was no favored or state religion. There were no registration requirements for religions or religious groups, and all faiths were free to establish places of worship, train clergy, and proselytize. The Government controlled entry into indigenous lands and required missionary groups to seek permission from the FUNAI.

Leaders in the Jewish community expressed concern over the continued appearance of anti-Semitic material on Internet websites compiled by neo-Nazi and "skin-head" groups.

In September a Rio de Janeiro state court upheld a sentence of community service imposed on a writer for publishing anti-Semitic slurs in a small-city newspaper. In October a court in Minas Gerais State imposed a fine of \$500 (1,800 reais) on a retired lawyer for using a racial slur in talking with a 29-year-old stonemason (see Section 5).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice, although there were restrictions on entry into protected indigenous areas, and a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent.

A 1997 law provides for asylum and refugee status in accordance with the principles of the 1951 U. N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provided first asylum and cooperated with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were an estimated 2,894 refugees in the country, mostly from Angola and other African countries, but also including persons from Iran, Bosnia, and Kosovo. The Government expanded its resettlement program to accept UNHCR referral of 100 refugees from Iran, Namibia, and Afghanistan. During the year, a total of 68 persons were granted refugee status, out of a total of approximately 531 requests. According to the Ministry of Justice, the number of refugees granted asylum was significantly lower than in 2001 due to the end of the Angolan civil war.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts who may not vote. It is voluntary for minors from 16 to 18 years of age, for the illiterate, and for those aged 70 and over.

In the October national elections, Worker's Party candidate Inacio Luiz Lula da Silva won a 4-year term with over 61 percent of the vote in the second-round runoff.

The Chamber of Deputies has 513 seats; the Senate has 81 seats. In the October elections, the PT won 91 Chamber seats and 14 Senate seats, becoming the largest single party in the Chamber. At year's end, the PT was negotiating with other parties to build majority coalitions in both houses.

A September 2001 constitutional amendment limits the President's power to legislate by "provisional measure" (MP). The amendment limits the validity of presidential MPs to 60 days (renewable once). The President no longer may issue MPs that address nationality, citizenship, political rights, legal due process, or the judi-

cial branch, or that could change the Constitution or the budget (except under extraordinary circumstances).

Women had full political rights under the Constitution and were increasingly active in politics and government. Cultural, institutional, and financial barriers continued to limit women's participation in political life. In the October elections, there were 2,647 female candidates (14 percent of the total), compared with 1,778 female candidates in 1998 (12 percent of the total). Representation of women in the national Congress increased from 6.1 percent to 8.4 percent after the October elections: 42 women were elected to the Chamber of Deputies and 8 to the Senate. Incoming President Lula da Silva nominated four women to hold cabinet-level positions, including that of Secretary of State for Women's Affairs, which previously was supervised by the Ministry of Justice and now reports directly to the President.

Diverse ethnic and racial groups, including indigenous people, were free to participate politically.

In September the regional electoral tribunal in Acre State ruled that incumbent Governor Jorge Viana could not stand for reelection because of alleged campaign law abuses. The TSE overturned the decision.

In September several voters in poor regions of the Federal District alleged that they had received threats from representatives of the governor and other incumbent candidates campaigning for reelection. Voters alleged that they were warned that if they did not vote for the specified candidates, health and other social benefits would be cut off.

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

Local and national human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their views. Federal and state officials in many cases actively solicited the aid and cooperation of NGOs in addressing human rights problems; however, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, especially members of the state police forces.

AI denounced death threats made during the year against more than 50 human rights activists working in Espirito Santo State and called on the state government to do more to investigate human rights abuses and organized crime. AI also challenged President Cardoso to do more to assist the Ministry of Justice's investigation into the abuses in Espirito Santo.

Denise Frossard, a retired judge working for Transparency International, received death threats. Former military policeman Jadir Simeone Duarte—who allegedly received an offer of \$270,000 (1 million reais) to kill Frossard—was arrested before he could commit the murder.

The Justice Ministry's National Secretariat of Human Rights administered and sponsored programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous peoples, the elderly, and persons with disabilities.

During the year, the Government appointed Paulo Sergio Pinheiro, former U.N. Special Rapporteur for Human Rights in Burundi and the U.N. Special Rapporteur for Human Rights in Myanmar, as the new Secretary for Human Rights. In October 2001, the Government established a Federal Commission Against Torture (*see* Section 1.c.).

A number of states have ombudsmen (*see* Sections 1.a. and 1.c.). However, some NGOs and human rights observers questioned the independence of some of the ombudsmen. All ombudsmen offices suffered from insufficient resources.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination on the basis of sex, race, religion, or nationality; however, discrimination against women, blacks, and indigenous people continued unabated, and there was widespread violence against homosexuals. The International Labor Organization (ILO) noted that significant differences in wages affected women and blacks, particularly in rural areas. A 1997 law provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin. There were no known convictions under this law.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and AI documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao

Paulo, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers (*see* Section 1.c.).

The GGB claimed that 132 homosexuals—male and female—were killed in 2001. Transvestite prostitutes—the most visible homosexual group—were at greatest greater risk of violence; there were reports of police abuse of transvestites (*see* Section 1.c.). The police reportedly investigated 46 murders related to homosexuality.

In September Igor Xavier was reportedly killed in Minas Gerais State by an antigay farmer. The farmer, who admitted the shooting, claimed that the victim abused his 19-year-old son; however, evidence pointed to an elaborately planned murder. According to witnesses, the farmer met Xavier at a bar, took him home, shot him twice at close range, and dumped the body on the side of a rural highway. The farmer's family members later helped him clean up the murder scene.

In April Jose Marcio Santos Almeida, a known homosexual, was stoned and beaten in a small town in Alagoas State. Before dying the following day, Almeida named his attackers, who were arrested and remained in police custody at year's end. His death was labeled a hate crime. A 2000 survey conducted on the killing of homosexuals registered 28 deaths in Sao Paulo, 18 in Pernambuco, and 10 in Alagoas. Bahia State allegedly recorded 1,960 homosexual-related killings between 1980 and 2000.

In the case of the 2000 beating death in Sao Paulo of Edson Neris da Silva—seen holding hands with another man—a court sentenced two alleged gang members to 21 years in prison, while a third suspect received a lighter sentence. The status of the court cases against 15 other defendants in the case was unknown.

The Secretariat of State Security of Rio de Janeiro, in partnership with NGOs, continued to operate a hot line for complaints of violence or other crimes against homosexuals, as well as for complaints of prejudice, discrimination, or other crimes based on race, ethnicity, color, religion, or national origin. The offices in police headquarters where both hot lines were located also offered professional counseling to victims of such offenses.

Women.—The most pervasive violations of women's rights involved sexual and domestic violence, which were both widespread and underreported. Most major cities and towns had special police offices to deal with such crimes against women; however, reporting crimes and receiving help continued to be a problem for women living in remote areas sometimes great distances from the nearest special office. For example, the large but sparsely populated states of Acre and Roraima each had only one such office.

In Rio de Janeiro an integrated center for support to women victims of violence or discrimination, which opened in March 2001, provided psychological and legal assistance to 130 women per month and had a hot line to encourage women to register complaints. Women who consulted the center about domestic violence could stay at women's shelters run by the city of Rio de Janeiro and a smaller town. Demand by women and their children to stay in the shelters exceeded their capacity.

Each state secretariat for public security operated "women's stations" (*delegacias da mulher*). However, the quality of services provided varied widely, and the availability was especially limited in isolated areas. The stations were intended to provide the following services for victims of domestic violence: Psychological counseling; a "shelter home" for victims of extremely serious abuses who had no place to go; hospital treatment for rape victims, including treatment for HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts. However, a November 2001 Ministry of Justice report revealed that many of the women's stations fell far short of standards. For example, 20 percent lacked a conventional telephone line, 53 percent lacked police officers trained in dealing with violence against women, and 77 percent did not have an officer on duty 24 hours a day. In Rio de Janeiro State, the women's police stations registered 1,364 cases of sexual violence against women during the year, a 2.4 percent increase over the 1,332 cases in 2001.

The sentences for rape varied from 8 to 10 years. An offender accused of domestic violence in a case that did not involve a serious offense and carried penalties of less than 1 year's imprisonment could receive alternative sentencing with no jail term. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes.

Spousal rape is illegal; however, men who committed crimes against women, including sexual assault and murder, were unlikely to be brought to trial. A 1999 study indicated that 70 percent of criminal complaints regarding domestic violence against women were suspended without a conclusion. Only 2 percent of criminal complaints of violence against women led to convictions. In 1998 the National Movement for Human Rights (NMHR) reported that female murder victims were 30

times more likely to have been killed by current or former husbands or lovers than by others, a rate that the NMHR believed still continued.

Adult prostitution is not illegal; however, various associated activities, such as running an establishment of prostitution, are illegal.

Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.).

Sexual harassment is a criminal offense, punishable by 1 to 2 years in jail. In addition to its application in the workplace, the law encompasses sexual advances between family members, individuals in educational institutions, and service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim.

The Constitution prohibits discrimination based on gender in employment or wages and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely was enforced. According to a study conducted by the Getulio Vargas Foundation, women had to study 25 percent more in order to receive the same salary as men. On average, each additional year of studies yielded a 10 percent salary increase for men, and only an 8 percent increase for women.

A 2000 study by the Brazilian Institute of Geography and Statistics (IBGE) indicated that in the country's six largest metropolitan areas, the median income for women was 67 percent that for men; 1998 government statistics indicated that women with a high-school education or less earned, on average, 63 percent of the salaries earned by men with comparable education. Afro-Brazilian women earned on average 26 percent of a white male's salary. A 2001 Ministry of Labor survey reported that the average starting salary for high school educated women in Sao Paulo was one-third less than the average starting salary for high school educated men. According to the Ministry of Labor and Employment (MLE), Centers for the Prevention of Workplace Discrimination existed in 16 states. These centers, which were housed in regional bureaus of the Ministry, promoted programs to end discrimination in the workplace and cultivated partnerships with other organizations that combat discrimination. The centers also served as clearinghouses for allegations of discrimination.

The Maternity Leave Law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates; however, some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Employers found violating the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest-paid employee. At year's end, there was no information on enforcement of this law.

In December in one of his first appointments, incoming President Lula da Silva named a woman to the newly created cabinet-level position of Secretary of State for Women's Affairs.

Children.—Millions of children continued to suffer from the poverty afflicting their families, worked to survive, and failed to get an education. Schooling is free and compulsory between the ages of 7 and 14 and was available in all parts of the country; however, not all children attended school regularly. The rate of school enrollment of children aged 7 to 14 increased from 89 percent in 1994 to 95 percent in 1999, but there were still 1.1 million children in this age group who did not attend school. Repetition rates and the poor quality of public schools continued to be a problem. Fully 40 percent of first-graders repeated the year, and in a number of states first-graders were more likely to fail than to pass. Girls and boys attended school in roughly comparable numbers.

In 2000 UNICEF reported that each year nearly 100,000 children died before their first birthday, almost half during the perinatal period. Between 1989 and 1999, the national infant mortality rate declined from 51 to 34 per 1,000 live births; however, in some states, such as Alagoas, it was as high as 72 per 1,000, and some municipalities had rates of 110 per 1,000.

A 2001 UNICEF report based on 1999 data estimated that over 20 million children and adolescents—almost 39 percent of the total—lived in poverty. The Inter-American Development Bank estimated in 2001 that 30 million children lived below the poverty line.

Child abuse was widespread, but the 2001 UNICEF report noted that there were no useful nationwide statistics on its extent.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. In association with the Ministry of Justice, the NGO ABRAPIA since 1997 has operated a telephone hot line to register complaints of sexual abuse against children and adolescents. In the 5-year period ending December 2001, the hot line received a monthly average of 40 complaints nationwide, of which one-third came from the States of Rio de Janeiro and Sao Paulo. In the first 6

months of the year, the hot line received 797 complaints, compared with 303 in the first 6 months of 2001. ABRAPIA also administered the "SOS-child" program in Rio de Janeiro State that registered complaints of domestic abuse against children and provided medical and social assistance.

A 1999 study by the Reference Center on Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, indicated that patterns of sexual exploitation of children corresponded to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centered around brothels that catered to mining settlements. In the large urban centers, children, principally girls, who left home to escape abuse or sexual exploitation often prostituted themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and even trafficked them outside the country (*see* Section 6.f.). Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. The report noted that although trafficking developed in part to meet the demands of foreigners, the local population sustained it. In 2000 the ILO reported that observers had cited over 3,000 girls who were subjected to debt servitude and forced into prostitution in Rondonia State.

A June law lengthened the maximum sentence to 10 years in prison for persons who manage brothels that exploit child prostitutes. In December the Ministry of Justice announced a program in cooperation with the U.N. Drug Control Program (UNDCP) to combat trafficking in persons for sexual exploitation—the National Plan to Combat Sexual Exploitation of Children (*see* Section 6.f.).

In 2000 the Government instituted the Sentinel Program to combat the sexual exploitation of minors. The program envisioned construction of 200 centers in capital cities and areas where sexual exploitation was prevalent, with multiprofessional staffs to assist victims of sexual abuse and exploitation. When necessary, staff also placed victims in foster homes. As of September, Sentinel included 40 centers throughout the country.

Trafficking in children for the purpose of prostitution was a serious problem (*see* Section 6.f.).

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

There were no reliable figures on the number of street children. Some were homeless, but the majority returned to a home at night. In 2000 a study in the city of Sao Paulo found 609 children living permanently on the street; a much greater number of children spent their days on the streets but had families with whom they spent the night.

The city of Rio de Janeiro, in cooperation with NGOs, provided 41 shelters and group homes, but the shelters reportedly were overcrowded and the staff was inadequately trained; two of the shelters closed during the year. Drug use, particularly glue sniffing and crack, was increasingly prevalent among street children. NGOs reported that extreme poverty at home or sexual abuse by fathers and stepfathers were the principal reasons that many children chose to live in the streets. An IGBE study reported that 47 percent of Sao Paulo street children came from families that earned less than \$150 (540 reais) per month.

Police killings of street children continued. In December 2001, U.N. High Commissioner for Human Rights Mary Robinson stated that police violence against street children was a major concern. She specifically expressed concern about the kidnaping of street children for adoption and sexual abuse.

From 1990 to 2000, there were 21 murders of boys between the ages of 9 and 13 in Maranhao State, many of whom bore signs of sexual assault. In 2000 Justica Global and the Macros Passerini Defense Fund filed a complaint with the IACHR accusing the state government and the federal authorities of failing to investigate the crimes; in November 2001 the IACHR gave the Government 2 months to investigate and halt the killings. There were no known developments in the cases by year's end.

Youth were both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent were due to causes such as homicide, suicide, and traffic accidents; approximately 85 percent of the victims had been sexually exploited. These violent deaths reduced by at least 3 years the average life expectancy of men. Homicide was the leading cause of death for children aged 10 to 14, and only 1.9 percent of their murderers served prison sentences.

The News Agency for Children's Rights closely tracked stories in the media, published studies, and recognized media outlets that effectively covered child welfare issues. UNICEF worked in cooperation with the media organization Rede Globo to coordinate the Child Hope campaign.

Persons with Disabilities.—The Constitution contains several provisions for persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that worked with persons with disabilities reported that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates percentages of vacancies that businesses must reserve for persons with disabilities: 2 percent in firms over 100 employees; 3 percent in firms over 300 employees, and 5 percent in firms over 500 employees. In 2001 in Rio de Janeiro State, the Ministry of Labor began on-site inspections of firms to encourage compliance with the law; similarly, a Federal District information campaign to encourage compliance continued. The Rio de Janeiro State government's employment bank for persons with physical, auditory, or visual disabilities continued to place job applicants. At least two NGOs in Rio de Janeiro State offered job placement services for persons with disabilities, and demand for their services expanded during the year as businesses sought to comply with the employment law.

There was little progress nationwide on eliminating architectural barriers. A December 2001 city of Rio de Janeiro law requires multifamily condominiums to make alterations ensuring access to handicapped residents. In the city of Rio de Janeiro, the disabled had little or no access to buses (the main public transportation), subway, phone booths, and many other public facilities. In 1999 Rio de Janeiro mandated bus companies to make a specific number of buses on certain routes accessible to wheelchair users within 3 months; however, there were reportedly no buses in the city adapted for wheelchairs. In the city of Rio de Janeiro, bus companies were required to provide free passes to persons with disabilities. The Rio de Janeiro State government also created interagency committees to consult with NGOs on how to provide more access for persons with disabilities to buildings, employment opportunities, and competitive sports. During the year, a state housing program delivered 86 new houses equipped for handicapped residents, implementing a policy that 10 percent of publicly provided homes shall be so equipped. To assist visually impaired persons, some private firms have implemented Braille instructions for shopping and placing orders.

The country made significant advances in expanding the availability of special instruction for children with disabilities. In 1997 only 43 percent of school districts offered special education programs, compared with 59 percent in 1999. The availability of such programs varied greatly by region: In the northeast, only 37 percent of school districts had such programs, while they were available in 81 percent of school districts in the southernmost three states.

There were over 7,300 instances of persons being committed to mental institutions during the year. There were no statistics available on the total number of patients in mental institutions. Some nonviolent patients spent their entire lives in institutions. The Government paid hospitals about \$12 (28 reais) per day for each patient. A 2000 Chamber of Deputies' Human Rights Commission report of conditions of mental hospitals and asylums cited many examples of understaffed and poorly administered hospitals, substandard living conditions for many patients, and severely overcrowded and dirty facilities. A 2001 patients' bill of rights law establishes clear criteria for commitment into mental institutions and gives the Public Minister (an independent watchdog agency) an opportunity to review each case of involuntary or compulsory commitment.

Indigenous Persons.—The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government did not secure these rights for indigenous people in practice. The Government estimated that over half lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts.

A March 2001 study by the Social Economic Institute found that the indigenous population grew by 3.5 percent in 2000, to a total of approximately 350,000 persons, spread among 216 "nations." The report noted many problems faced by indigenous people, including disease and poor health care, loss of native culture, and recurring trespasses and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. Illegal mining, logging, and ranching were endemic on indigenous land.

The National Indian Foundation was responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it was organized into 52 regions with directors appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal government with demarcating indigenous areas within 5 years. Reportedly, the Government had completed demarcation of almost all of the total area of recognized indigenous territory. At least 400 of the 600 recognized indigenous areas had reached the final registration stage, 136 remained to be demarcated legally, and 64 had yet to be processed. Identified indigenous territory constituted 12 percent of the national territory.

The Constitution provides indigenous peoples with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands; the Government administers the lands but was obliged to consider the views of the affected communities regarding development or use of the land, and the communities had the right to "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands pending before the Congress since 1995 has never been passed.

Many indigenous lands were exploited illegally by nonindigenous persons for mining, logging, and agriculture. Nonindigenous persons destroyed the environment and wildlife, spread disease and provoked violent confrontations. FUNAI acknowledged that it did not have the resources to protect indigenous lands from encroachment and depended on the federal police—an understaffed and poorly equipped agency—for law enforcement on indigenous lands.

The Ministry of Public Health was responsible for delivery of mandated health care to indigenous people. According to health workers' unions, poor working conditions and lack of resources from the Government made it difficult for health workers to travel into indigenous areas to provide sufficient medical care. Due partly to the Government's failure to provide legally mandated medical care, indigenous people periodically suffered epidemics of malaria, measles, and tuberculosis; however, there were significant advances in indigenous health since 1999. For example, the incidence of registered cases of malaria among the Yanomami fell from 8.3 percent in January 2000 to 0.3 percent in September 2001, while infant mortality dropped significantly, although it was still higher than in the general population.

Human rights groups and the Human Rights Commission of the Chamber of Deputies criticized the alleged sexual abuse of members of indigenous groups by soldiers in army units stationed in Roraima State. The Minister of Defense denied the allegations, stating that any sexual relations that took place were consensual in nature and usually involved soldiers of indigenous origin.

National/Racial/Ethnic Minorities.—Although the law prohibits racial discrimination, darker-skinned citizens frequently encountered discrimination.

The U.N. Special Rapporteur on Torture noted that the majority of the victims of torture were of Afro-Brazilian descent (*see* Section 1.c.). Research by the Institute of Applied Economic Research (IPEA) noted a disproportionately high rate of police killings of Afro-Brazilians. Persons of color were five times more likely to be shot or killed in the course of a law enforcement action than were persons perceived to be white. The Sao Paulo police ombudsman claimed that the majority of victims in police killings were young black men from impoverished areas on the periphery of major cities.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits, and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported arrests of several persons charged with using racial slurs during the year.

A federal government quota system that went into effect in June required that at least 20 percent of new hires be Afro-Brazilian, 20 percent women, and 5 percent persons with disabilities. There were exceptions; for example, the Ministry of Foreign Affairs will not automatically hire 20 percent Afro-Brazilians, but instead will offer scholarships to 20 Afro-Brazilians to help them prepare for the diplomatic exam.

In its first 22 months of operation (through October), a hot line created by Rio de Janeiro State received slightly more than 800 accusations of racist offenses, of which 104 were referred to the criminal justice system and 48 were being actively investigated or prosecuted.

A study of 22 states, done at Sao Paulo's Pontifical Catholic University, showed that between 1995 and 2000, the authorities received 1,050 discrimination complaints, of which 651 were investigated and 394 were brought to trial; however, there were no convictions. The study noted that this record reflected the difficulty of proving acts of racism and demonstrated a lack of knowledge of the existing antiracism statutes on the part of lawmakers, public attorneys, judges, and lawyers.

IPEA reported that citizens of African descent—constituting approximately 45 percent of the population—represented 60 percent of the poorest segment of society and received 7 percent of the national income. Studies also showed that rates of police torture, court convictions, child labor, illiteracy, and infant mortality were higher among citizens of African descent than among whites (*see* Section 1.c.).

Education played a role in perpetuating racial disparities. The difference in average number of years of education between a black person and white person had not changed in 40 years. Approximately 60 percent of Afro-Brazilians in the lowest social class had less than 3 years of education, compared with 37 percent of whites. A 1999 IPEA study found that the illiteracy rate among Afro-Brazilians was 20 percent, compared with 8 percent for whites and the national average of 13 percent. Afro-Brazilians were not admitted to universities in large numbers, in part due to economic pressures and the low quality of public education. Only 5 percent of university students and 2.2 percent of university graduates were Afro-Brazilian.

Some educational institutions and official entities instituted programs to narrow the educational gap between blacks and whites. The Steve Biko Institute in the city of Salvador provided extra classes to help 200 Afro-Brazilian students gain admission to universities in Bahia State; about 180 students were enrolled in the classes paying tuition of approximately \$35 dollars (80 reais) per month. At least three non-governmental projects helped Afro-Brazilians pass university entrance exams in Rio de Janeiro.

In February the Governor of the Federal District, Joaquim Roriz, was accused of being a racist after comments made during a speech in the city of Brazlandia. Angered by Worker's Party protesters, Roriz asked the audience to boo Marinaldo Nascimento, whom he slurred with a racial epithet.

Concern continued over the appearance of racist material on the Internet. In June the Sao Paulo State legislature and various NGOs requested that the Attorney General investigate who was responsible for disseminating neo-Nazi, racist, and discriminatory content on five Internet sites and submitted a 100-page document, providing examples of language inciting attacks on people of color and Jews in Sao Paulo, Rio de Janeiro, and Belem (Para), as well as a threat to set fire to the City Hall in Caxias do Sul (Rio Grande do Sul). The document cited texts exhorting the "preservation of the pure race" by means of violent attacks. The Attorney General's investigation continued at year's end.

There was no further information regarding investigations into the threats two members of the Sao Paulo State assembly's Human Rights Committee reportedly received in 2000 from a group identifying itself as "raca pura" (pure race).

Afro-Brazilian women were particularly disadvantaged by discrimination. An IPEA researcher found that women of African descent suffered discrimination in the work place: Nationwide, white men had an average monthly salary of about \$269 (726 reais), white women \$212 (573 reais), Afro-Brazilian men \$125 (337 reais), and Afro-Brazilian women \$107 (289 reais). The study also found that white men had an unemployment rate of 7.3 percent, black men 11 percent, white women 12.5 percent, and black women 16.5 percent.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment, which accepts the registration if no objections are filed by other unions. Registration may be contested by other unions that represent workers in the same geographical area and professional category. In the case of such an objection, the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union and union organizers may challenge this decision in the labor courts.

The 1988 Constitution stipulates certain restrictions, such as "unicidade" ("one-per-city"), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticized the retention of unicidade.

In practice a number of competing unions were allowed to exist among the thousands of local unions; however, the MLE and the courts actively enforced the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized, but nearly twice this percentage was charged a mandatory union tax and also was covered by collective bargaining agreements (*see* Section 6.b.). Most informal sector workers, including self-employed workers and those not formally registered with the Labor Ministry,

fell outside the official union structure. As a result, they did not enjoy union representation and were usually unable to exercise fully their labor rights. The informal sector grew rapidly over the previous decade and accounted for approximately half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

The Ministry of Labor estimated that there were approximately 11,000 unions across the country. Local unions legally may affiliate with state federations and national confederations in their professional category. Although the law makes no provision for central labor organizations that include multiple categories of workers, there were four major centrals: The Workers' Unitary Central (CUT), the Força Sindical (Union Force or FS), the Workers' General Confederation (CGT), and the Social Democratic Union (SDS). Labor centrals channeled much of the political activity of the labor movement, organized strikes involving multiple categories, and represented workers in governmental and tripartite councils. Centrals did not have legal standing to represent professional categories of workers in collective bargaining.

The Constitution prohibits government interference in labor unions. Unions and their leadership generally were independent of the Government and of the political parties; however, there were some exceptions. A number of labor leaders also held prominent positions in political parties. Labor organizations often formed alliances with political parties and social movements to advocate for specific issues. For example, the CUT joined with the National Conference of Bishops, the Landless Movement, and a variety of NGOs to conduct a national plebiscite on debt repayment in 2000 and to organize the World Social Forum in Porto Alegre in January 2001. The same forces organized a national "plebiscite" on participation in the Free Trade Agreement of the Americas during the year. The major union centrals had close relationships with left-of-center political parties and often coordinated actions with party leaders. The October elections demonstrated the closeness of these ties: FS leader Paulo Pereira da Silva (Paulinho) served as vice presidential candidate for Ciro Gomes, and CUT Metalworkers' president Roberto Marinho ran for Deputy Governor of Sao Paulo alongside Workers Party candidate Jose Genoio.

There were no further developments in the police investigation into the November 2001 murder of Aldamir Carlos dos Santos, the president of Sintergia, the electrical workers' union in Rio de Janeiro.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that labor leaders were victimized by a campaign of violence in rural areas, with the perpetrators enjoying relative impunity (see Section 1.a.). Only 85 of the 1,222 killings of rural labor leaders and land reform activists registered by the CPT since 1985 came to trial, and only 8 persons were convicted. The CPT reported that 18 rural labor leaders were murdered through the first 8 months of the year.

In July labor activist Jose Pinheiro Lima and his wife and son were killed near Maraba, Para. The authorities charged a landowner with ordering the deaths but released him from custody.

Para continued to be the state with the most violence directed toward labor leaders. According to leaders of the National Confederation of Agricultural Workers, there was an organized campaign in Para State to kill rural labor leaders. Catholic Church sources reported that eight activists were killed in Para State in 2001, and through August there were six more killings, including those of MST leader Ivo Lindo do Carmo and union official Bartolomeu Moraes de Silva. CPT leaders in Para State claimed that gunmen hired by estate owners committed most of these murders. They noted that those who hire gunmen had become more adept at hiding their participation and increasingly targeted labor leaders with significant experience in organizing and leading land appropriations.

In May a local judge in Rio Maria, Para, ordered that a trial of two men (including the former mayor) charged with the 1985 murder of Joao Canuto, the first president of the local rural workers' union, should proceed; the trial had not started by year's end. Canuto's daughter, Luzia Canuto, received death threats as a result of the case.

Human rights groups and land reform activists criticized a jury verdict in June in Paraiba absolving a landowner of guilt in the 1983 slaying of rural labor leader Margarida Maria Alves. The case was also the subject of an action in the Inter-American Court of Human Rights.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. However, the authorities did not effectively enforce laws that protect union members from discrimination. Those who were dismissed often must resort to a lengthy court process for relief. Labor courts charged with resolving these and other disputes involving unfair dismissal, working condi-

tions, salary disputes, and other grievances were slow and cumbersome. It was estimated that more than 3 million complaints languished in the labor court system at year's end. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. According to the Supreme Labor Court, over 2 million complaints were registered annually in labor courts.

The Government sought to reduce this backlog and increase the efficiency of the courts. A 2000 law permits cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing; another law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. Approximately 1,400 such commissions operated, and approximately half of the complaints reaching labor courts could be handled with the expedited procedure. Nonetheless, lengthy delays remained frequent.

Unions and centrals freely affiliated with international trade union organizations; the CUT, FS, and CGT were affiliated with the ICFTU.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right of workers to organize and to engage in collective bargaining. Businesses and unions worked to improve collective bargaining by training negotiators, but many local representatives had not received this training and remained unprepared to represent members effectively in negotiations. The labor justice system, which may set wages and working conditions when negotiations break down and either party appeals to labor courts, continued to weaken collective bargaining. Although such appeals occurred less frequently than a decade ago, the possibility of a better result in labor courts still led to a lack of bargaining in good faith by parties in numerous negotiations.

Collective bargaining was widespread in the formal sector. In the first 10 months of the year, 17,741 agreements were registered with the Ministry of Labor, compared with 21,963 agreements in all of 2001. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union. Unions typically negotiated with employer associations (also called unions) that represent companies with employees in the same area and occupational category.

A 1995 regulation that ended inflation indexing of wages also allowed for mediation of wage settlements with consent of the parties involved and provided greater latitude for collective bargaining. Free mediation services were provided by the Ministry of Labor and the federal Labor Prosecutor's Office (MPT), and unions and employers also may choose a private mediator from a registry kept by the Labor Ministry. According to the MLE, in the first 10 months of the year, more than 8,000 collective bargaining agreements used mediation services, compared with over 10,000 in all of 2001.

The Constitution provides workers with the right to strike, except for the military, police, and firemen. The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. The Government generally did not interfere with the right to strike, provided that all laws were obeyed. Employers are prohibited from hiring substitute workers during a legal strike and from firing workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process.

The number of strikes diminished in the past several years. During the year, teachers, health workers, port officials, transport workers, stevedores, health-care providers, and metalworkers all engaged in strikes.

The Congress has not passed enabling legislation for labor code provisions permitting strikes in the public sector; however, in practice the Government seldom interfered with the right of government workers to strike. Numerous public sector unions at the federal, state, and local levels held strikes during the year to demand salary increases. According to the Interunion Department of Socioeconomic Studies and Statistics (DIEESE), the Federal government had not given a general salary increase to federal employees in 7 years, resulting in a significant erosion of real earnings. Public sector unions who struck during the year included social security workers, professors, judicial workers, and customs agents.

In 2001 civil and uniformed police walked out in many states to demand salary increases and safer working conditions. While civil police are allowed to form unions and conduct strikes, uniformed police are prohibited from organizing.

Labor law applies equally in the country's four free trade zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children; however, forced labor and trafficking of workers were reported in the majority of states (*see* Section 6.f.). The practice occurred most commonly in the rural north and central west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involved young men drawn from the impoverished northeast, but women and children also were engaged in activities such as charcoal production. Children involved in forced labor typically worked alongside their parents. Although indigenous people constituted a small percentage of the overall population, they were especially vulnerable to forced labor schemes when separated from their communities (*see* Section 5). Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers were exploited in urban sweatshops under conditions that may involve fraud or coercion.

The CPT estimated that approximately 15,000 workers were trapped in forced labor schemes throughout the country, although it acknowledged that the hidden nature of the practice made estimates inexact. Labor intermediaries (“gatos”) trafficked most forced laborers to the remote estates where they worked (*see* Section 6.f.). At the worksite, laborers were forced to work in brutal conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing. The CPT reported that fleeing workers were killed or beaten to set an example to others at the worksite. Dire poverty, low levels of education, and workers’ lack of awareness about their rights contributed to their vulnerability to forced labor schemes. The MLE reported that nearly 80 percent of forced laborers had no official documentation and that most were illiterate.

The Penal Code provides that violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting, transporting, or obliging workers to incur debt as part of a forced labor scheme (*see* Section 6.f.). However, the ILO expressed concern that the effective abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies. The law allows the Government to expropriate lands on which forced labor has been found and to distribute the property in the Government’s land reform program; however, these provisions rarely were applied, in part because the Government must compensate landowners for seized lands, sometimes at values that were criticized for being overly generous. Enabling legislation for the constitutional provision allowing confiscation of land on which forced labor is discovered remained under consideration.

Violators of forced labor laws enjoyed virtual impunity. There were only 26 arrests and 3 convictions in the nearly 5,000 instances of forced labor uncovered by inspection teams since 1995. Those convicted were freed on appeal or sentenced to do community service. Factors contributing to this record included: Disputes over legal jurisdiction; a lack of a clear definition of forced labor in the Penal Code; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor is practiced; witnesses’ fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids. The ILO, ICFTU, Anti-Slavery International, and the Pastoral Land Commission found that the current system did not effectively penalize those who exact forced labor. A complaint has been lodged with the OAS against the Government for negligence in investigating forced labor in the Brazil Verde estate. A number of ranchowners and employers, although cited repeatedly for using forced labor schemes, received only token sentences.

However, there were exceptions to the impunity: In November a labor court judge in Para fined a plantation owner approximately \$18,000 (60,000 reais) for using forced labor. It was the first time that a farmer had been fined on the basis of the damage he caused to the workers. The president of the Supreme Labor Court, Francisco Fausto, praised the decision of the Regional Labor Court, noting that forced labor would be ended only by the application of such sanctions.

The Executive Group to Combat Forced Labor (GERTRAF) coordinated the Government’s efforts to eliminate forced labor since 1995. GERTRAF is chaired by the Ministry of Labor and Employment, and it includes representatives from seven ministries, unions, employers, and NGOs. In December 2001, the President appointed a special advisor on forced labor issues, and the Secretariat for Human Rights of the Justice Ministry created a parallel commission to develop recommendations to

improve the enforcement of laws on forced labor and child labor. During the year, the MPT and the Brazilian Bar Association established forced labor commissions. Prosecution of forced labor cases is the responsibility of the Federal Prosecutor's Office, but the MPT also may become involved in investigating such cases (see Section 6.f.).

GERTRAF's enforcement arm—the Special Group for Mobile Inspection—had responsibility for locating and liberating workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who accompanied labor inspectors on raids to provide protection. When mobile teams found workers in conditions of forced labor, they levied fines on estate owners and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin. In October labor inspectors in the mobile unit received death threats while conducting raids in Para State.

Through August the mobile group had located approximately 1,600 forced laborers, exceeding the number of liberated workers for any previous full year of operation. Forced laborers were found during the year in activities including deforestation, logging, mining, raising livestock, and harvesting sugarcane, coffee, cotton, papayas, pepper, and soybeans. In March the mobile unit found 53 workers toiling in conditions of forced labor on a ranch owned by a leading member of the federal Chamber of Deputies. Although the Labor Minister issued a statement exonerating the politician, subsequent testimony revealed the use of debt servitude on the ranch. The MPT forwarded the case to the Attorney General and also filed a civil suit against the politician for damages equaling about \$5,800 (20,000 reais) per worker. In another major raid in October, the mobile unit liberated 180 workers, including 30 children, working on a black pepper ranch in Para State.

Despite its efforts, the mobile unit had only a limited impact on the incidence of forced labor. The CPT, whose network of local churches was responsible for the vast majority of forced labor complaints reaching the mobile unit, reported that forced labor may actually be growing. The CPT noted that the number of raids by the mobile unit remained relatively constant in the past 3 years, while the number of liberated workers had grown significantly, revealing an increase in the number of forced laborers per ranch. In Para State, where most forced labor was found, the CPT received complaints of approximately 3,200 cases of forced labor on 80 ranches through September, nearly three times the total for all of 2001. The mobile unit reportedly was unable to keep up with the increase in forced labor complaints due to insufficient resources and the cost and time required to mount an operation. The mobile unit encountered resistance from local authorities, including from the local bureaus of the Labor Ministry, in a number of states.

Poverty and a lack of viable alternatives led many workers repeatedly to fall prey to trafficking and forced labor schemes. In October the Government moved to end this cycle by instituting a measure that allows workers freed from forced labor schemes to receive three installments of unemployment insurance equal to the minimum wage—approximately \$57 (200 reais) per month—and to be eligible for job training. To educate rural workers about the dangers of forced labor, the CPT ran an informational campaign in which it distributed pamphlets to rural workers in areas targeted by traffickers (see Section 6.f.). In some states, local unions registered and tracked workers who left the municipality to work on remote ranches. The National Confederation of Agricultural Workers' radio programs also educated rural workers about forced labor.

In March the ILO officially established a program to support governmental efforts to fight forced labor through improved interagency cooperation, strengthened enforcement, heightened public awareness, training for relevant government agencies, and the provision of additional resources to the Government. The ILO program had already contributed to increased discussion of forced labor through a number of seminars and workshops.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law restricts work that may be performed by children; however, child labor was a widespread problem despite government efforts to combat it. The minimum working age is 16 years of age, and apprenticeships may begin at 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions. However, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18.

The law requires permission of the parents for minors to work as apprentices, and apprentices must attend school through the primary grades. Because the legal working age is 16, the Government sought to increase the number of apprenticeships to provide more opportunities to 14- and 15-year-olds. A 2000 law expands apprenticeship programs by allowing a wider range of enterprises to participate.

According to government figures, the number of working children age 14 and under decreased from 2.97 million in 1999 to 2.23 million in 2001. The largest decline was in the 10- to 14-year-old age group. The percentage of children who worked in the 5 to 14 age group dropped from 9 percent in 1999 to 6.8 percent 2 years later. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. The highest incidence of child labor was found in the northeast, where half of all child workers were employed. Slightly over half of child laborers worked in rural areas, and two-thirds were boys.

The Labor Ministry reported that children worked in approximately 100 rural and urban activities. Common rural activities included fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children worked in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking and prostitution (see Section 5). The ILO estimated that approximately 500,000 children and adolescents worked as domestic servants and that 20 percent of 10- to 14-year-old girls worked as domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The Ministry of Labor and Employment was responsible for inspecting worksites to enforce child labor laws. These efforts were guided regionally by Special Groups for the Eradication of Child Labor, which gathered data and developed plans for child labor inspection. Still, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Through the first 8 months of the year, approximately 3,250 inspectors conducted over 19,500 inspections that reached workers under 18 years of age. Labor inspectors continued to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$115 (400 reais) per violation. As a result, few employers were actually fined for employing children.

Labor Ministry inspectors often worked closely with labor prosecutors from the MPT, who had broader powers and were able to impose larger fines. The MPT—an independent government agency responsible for prosecuting labor infractions—had a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash-picking, apprenticeships, and work in a family setting. The commission allowed the Ministry of Labor to be more responsive to complaints regarding child labor and to encourage public commitments from officials to address child labor.

The Ministry of Social Security and Assistance coordinated the Government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. This program was the Government's primary effort to end the worst forms of child labor. Because the public school day lasts only 4 hours, PETI emphasized complementary educational activities for children during nonschool hours as an alternative to working. PETI assisted approximately 800,000 children in all 26 states and the federal capital during the year, focussing on removing children from work activities considered to be among the most hazardous by the Government. Although the program concentrated on rural areas, it had also grown rapidly in urban areas.

To prevent child labor and promote education, the Federal government also continued to expand its Bolsa Escola (School Stipend) program. The program provided mothers of low-income families with stipends of \$4 (15 reais) per child between the ages of 6 and 15, up to a total of 3 children per family. To receive the stipend, the child's monthly school attendance rate must be 85 percent. The Ministry of Education coordinated the Bolsa program, but responsibility for day-to-day management fell largely on municipal governments. At year's end, the program provided stipends to the mothers of approximately 9 million children in over 5,000 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs, including Belem, Campinas, Belo Horizonte, Manaus, Olinda, and Recife.

In order fully to comply with ILO conventions on the minimum age for work and on the eradication of the worst forms of child labor, in September the Minister of Labor created the National Commission to Eradicate Child Labor, which was devel-

oping a comprehensive national child labor plan to strengthen child labor eradication efforts.

Civil society supported the Government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor—with chapters in every state and over 40 institutional members from government and the private sector—promoted debate and broad analysis of national child labor prevention efforts. The Centers for the Defense of Children and Adolescents also were active in many parts of the country and reported violations of children's rights and implemented eradication programs (see Section 5).

The private sector and unions also played a major role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The Foundation also fostered prochild initiatives through its awards programs for organizations, journalists, and mayors. The Pro-Child Institute in Sao Paulo State coordinated a labeling program in the footwear industry. The Institute helped to reduce instances of child labor in footwear production in the state. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research promotion, and the incorporation of income generating schemes and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic service (see Section 5). UNICEF supported over 200 programs to improve the lives of children and since 1999 has helped to remove over 13,000 children from work in garbage dumps and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

e. Acceptable Conditions of Work.—The Government adjusts the minimum wage annually; in April it was raised from \$51 to \$57 (from 180 to 200 reais), which was not sufficient to provide a decent standard of living for a worker and family. A 2000 study by the DIEESE concluded that the minimum wage was about one-fifth of the salary necessary to support a family of four in the Sao Paulo metropolitan area. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at a rate equal to time and a half; these provisions generally were enforced in the formal sector. The law allows employers to compensate workers with time off rather than with overtime pay, provided that the local union agrees to the arrangement.

Unsafe working conditions were prevalent throughout the country. While workplace accidents dropped by 6 percent in 2001, there were still nearly 340,000 such accidents. The number of workplace deaths due to accidents dropped by more than one-third, to slightly over 2,500. The Ministry of Labor sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry devoted insufficient resources for adequate inspection and enforcement of these standards. Employees or their unions may file claims related to worker safety with regional labor courts, although in practice this was frequently a protracted process. According to the Ministry of Labor, the most dangerous industries in the country were logging, mining (including oil drilling), construction, and oil refining.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings did occur, and legal recourse usually requires years before resolution. The MPT reported during the year that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers could express such concerns to an internal committee for an immediate investigation.

f. Trafficking in Persons.—The law prohibits the transport of persons for illicit reasons within and outside the country; however, trafficking in persons primarily from and within the country was a problem. Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to lesser extent (see Section 6.c.). Although comprehensive gov-

ernment statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. Labor inspectors also found a small number of persons from other countries trafficked to work in urban sweatshops.

The NGO CECRIA's June report on trafficking in persons for commercial sexual exploitation—drawing on police, media, and other sources—identified over 130 sex trafficking routes, including 109 domestic routes (*see* Section 5). Domestic routes included: From Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the north and northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region where itinerant workers often transit. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. The survey also called attention to sex trafficking to areas with major development projects. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The report indicated that many sex trafficking routes were closely related to arms and drug trafficking routes.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that most women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases, women were told that they would work as nannies or domestic workers. Upon arrival, the victims' passports were often confiscated and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

In addition to sex trafficking, the other major type of trafficking was the internal trafficking of workers into forced labor schemes. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers were then obliged to toil in brutal conditions until they were able to repay inflated debts (*see* Section 6.c.). Union leaders claimed that nearly all of the 15,000 people estimated to be working as forced laborers had been trafficked by labor recruiters. The ILO cooperated with the Government, unions, and the CPT to construct a data base for use in recording and combating trafficking.

The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of prostitution, but it does not directly address the substantial internal trafficking of women. The Statute on Children and Adolescents provides some regulations on the matter by requiring the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless previous approval is given by the authorities. Still, local activists claimed that laws on trafficking for exploitation were open to interpretation and difficult to enforce, especially in relation to domestic trafficking. They called for comprehensive legislation to aid in prosecution of traffickers.

Laws regarding trafficking for forced labor present similar shortcomings, and activists advocated legislation to define more clearly modern forms of slave labor, such as the use of fraud and debt servitude. A 1998 Penal Code Amendment provides that traffickers may receive a fine and prison sentences of 1 to 3 years, which may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. Nevertheless, disputes regarding legal jurisdiction contributed to the Government's failure to prosecute labor traffickers effectively.

Laws on forced labor and domestic trafficking were not enforced effectively. Although labor inspectors had identified 5,000 instances of forced labor since 1995—nearly all of which involved traffickers—only 3 people had been convicted for related crimes (*see* Section 6.c.). Factors impeding such arrests included: The mobility of labor contractors, lack of training for police officers, and the potential witnesses' fear of reprisal and inability to remain in the area to testify. In most cases, police officers accompanying mobile inspection teams did not conduct investigations, thus ham-

pering prosecutors' efforts to build strong cases. Federal prosecutors and NGOs also reported that corruption among state police often impeded the apprehension of traffickers. However, in November federal police in Tocantins State arrested 5 men for trafficking 190 rural workers to ranches in Para State.

The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads. In a limited number of cases, they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers, and at least one prosecution for such an offense occurred due to a complaint from an NGO (*see* Section 2.a.).

Police officers reported difficulty in capturing and incarcerating traffickers because of the need to apprehend them in the act of traveling with the victims. In addition, most women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions. CECRIA reported that only 10 of the 36 trafficking cases dealt with by federal courts in Rio de Janeiro and Sao Paulo in recent years went to trial, with only 2 convictions.

In June 2001, federal police in Rio de Janeiro uncovered a trafficking scheme responsible for taking men and women to Japan to work as prostitutes. During the investigation, the police found evidence implicating Japanese organized crime in trafficking other men and women to Japan from Rio de Janeiro and Sao Paulo. Interpol cooperated with investigations in the case, but there were no major developments by year's end.

The Government coordinated several antitrafficking programs, including public information campaigns, a Ministry of Justice initiative against sexual exploitation, and the inclusion of trafficking as a priority area in the National Plan to Combat Sexual Exploitation of Children (*see* Section 5). A Ministry of Justice antitrafficking program undertaken in December 2001 in collaboration with UNDCP focused on constructing networks and opening six reference centers to receive trafficking complaints and provide assistance to victims. This program and other government efforts to combat trafficking in persons suffered from a lack of interagency cooperation and a severe shortage of funding (*see* Section 5).

Rio de Janeiro State had centers to provide assistance to female victims of violence, and NGOs helped women who were victims of abuse (*see* Section 5). In October the Government announced an agreement with a foreign donor to strengthen the country's network to combat the sexual exploitation of children.

NGOs played a vital role in efforts to halt trafficking. The Humanitarian Center to Support Women in Salvador, Bahia, sponsored research and coordinated a campaign to educate girls and women about the risks of being trafficked abroad. The Brazilian Multiprofessional Association for the Protection of Children and Adolescents managed a number of programs in Rio de Janeiro aimed at protecting youth from trafficking and domestic and sexual abuse and operated a national hot line on sexual exploitation.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. Jean Chretien began his third consecutive term as Prime Minister in November 2000; his Liberal Party had a majority of 172 of 301 seats in Parliament. The judiciary is independent.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are observed strictly, and the courts punish violators.

The country has a highly developed, market-based economy and a population of approximately 31.4 million. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems include discrimination against women, persons with disabilities, and aboriginal people. There was an increase in the number of reported incidents of anti-Semitic and anti-Muslim harassment. The Government continued to take serious steps to address private acts of violence against women. Trafficking of persons into the country, including trafficking for purposes of prostitution, was a growing problem. Canada was invited by

the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings.

In June 2001, an off-duty Royal Canadian Mounted Police (RCMP) officer shot and killed his former girlfriend and injured three other persons riding in a car with her. The authorities immediately arrested him and charged him with murder and attempted murder. His case was pending at year's end.

The trial of four Toronto policemen charged with manslaughter for the death of a suspect whom they beat while taking him into custody in 2000 is scheduled to begin in September 2003.

The RCMP completed an inquiry into the deaths of four aboriginal men in Saskatoon, Saskatchewan, in 2000. Two of the men were found frozen to death in an isolated area on the outskirts of Saskatoon, and the other two died at or near their homes shortly after being released from police custody. The RCMP found no basis for any criminal charges; local authorities conducted coroner's inquests in October 2001 and in January, which found no evidence of criminal conduct in the freezing deaths. The coroner's jury, however, made a series of recommendations to the RCMP for handling future cases (*see* Section 1.c.).

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 observed these prohibitions in practice; however, there were isolated incidents of police mistreating suspects.

In June 2001, two Saskatoon city police officers were found guilty of the charge of illegal confinement after they left an aboriginal man on the outskirts of the city in subzero temperatures without adequate clothing. The officers were fired and sentenced to 8 months in jail. They were free on bail while they appealed their conviction. Two aboriginal men were found dead in the same area around the same time, but a coroner's inquest did not find evidence of criminal conduct in those deaths. In response to these deaths and the arrest of the Saskatoon city police officers, the province of Saskatchewan formed a 3-year commission to study justice issues of aboriginal people.

The military continued to receive complaints from women serving in the armed forces who charged that they were subject to sexual abuse, harassment, and discrimination. An armed forces grievance board that is independent of the military chain of command began operations in June 2000. In addition, other mechanisms established by the Government to address such complaints, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, continued to operate. As of November 1, the Ombudsman had received seven sexual assault complaints, three sexual harassment complaints, and three gender discrimination complaints.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest, detention, or exile, and the Government generally observed these prohibitions in practice. Bail was generally available.

e. Denial of Fair Public Trial.—The law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and enforced the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (which is free for indigents), and to appeal. The prosecution also may appeal in certain limited circumstances.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law generally prohibits such practices, government authorities generally respected these prohibitions in practice, and violations were subject to effective legal sanction.

In December 2001, Parliament passed an antiterrorism bill that expanded police investigative and wiretapping powers. Federal and provincial authorities did not use the provisions of the bill that allow the Government to make preventative arrests of suspected terrorists and to conduct investigative hearings. There were no court challenges to the bill or complaints made to human rights commissions concerning its application.

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, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Journalists occasionally were banned from reporting some specific details of court cases until the trials were concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoyed wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven to be willful and public. The Broadcasting Act, which prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts.

The Human Rights Act also prohibits repeated telephone communications that expose a person or group to hatred or contempt. The Canadian Human Rights Tribunal found that the Internet falls under this act. In January the Tribunal ruled that the law prohibited the operation of an anti-Semitic hate-site. In August the Tribunal made a similar finding, ordering an Internet hate-site targeting homosexuals to cease operating.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Charter of Rights and Freedoms provides for these rights, and the Government generally respected them in practice.

c. Freedom of Religion.—The Charter of Rights and Freedoms provides for freedom of religion, and the Government generally respected this right in practice.

Religious groups are not required to register with the Government.

Public funding for Roman Catholic schools—or separate schools—is constitutionally protected in the country's original four provinces, but the policy has been challenged in recent years. In 1999 the U.N. Human Rights Committee found that the province of Ontario had failed to provide equal and effective protection against discrimination. In June 2001, the Ontario provincial legislature passed a graduated tax credit plan for parents of children attending all private schools, removing the historical limitation that provided such credits only in regard to Roman Catholic schools. The plan's 5-year phase-in began during the year.

There were a number of reports of harassment of religious minorities.

The League for Human Rights of B'nai Brith in Canada reported 197 incidents of anti-Semitism in the first 6 months of the year, compared with 286 incidents in all of 2001. Twelve of the reported incidents were violent; 121 were cases of harassment, and 64 were reports of vandalism. In April a synagogue in Saskatchewan and another in Ontario were set on fire. On May 19, a pipe bomb damaged the only Jewish synagogue in Quebec City. Approximately 75 percent of the incidents occurred in Toronto and Montreal, with other cases scattered across the country.

Some fundamentalist Christian groups' child disciplinary practices came under close scrutiny by the Government. In October a former nun and founding member of a religious commune on Prince Edward Island was convicted of assaulting five children by beating them with a wooden rod. In July 2001, Ontario authorities removed seven children from their parents' custody after provincial authorities reported the children showed signs of heavy corporal punishment. The parents belong to the Christian fundamentalist Church of God (affiliated with the Mennonites),

which advocates use of belts and sticks in disciplining children. The children were returned to their parents' custody subject to provincial supervision.

In May 2001, a Muslim chaplain filed suit in federal court against an Ontario provincial judge who ejected him from the courtroom in 1993 for wearing a Muslim cap. The chaplain's initial complaints filed with Canadian Judicial Council, provincial and federal human rights commissions were dismissed because the law gives judges immunity from human rights laws. In November 2001, the federal district court dismissed the case. The federal appeals court heard the chaplain's appeal on October 31 and declined to order the Judicial Council to reopen the chaplain's complaint.

The number of reported incidents of Muslim harassment increased. In a survey on Muslim life post-September 11, 60 percent of the respondents said that they had experienced some form of discrimination because of their religion. The Government strongly and publicly urged the population to refrain from prejudice against Muslims or other persons on the basis of their religious beliefs, ethnic heritage, or cultural differences. Police forces investigated and discouraged anti-Muslim actions.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

The law provides for the granting of asylum and refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extended first asylum. Canada is a resettlement country, and the Government projected that it would approve approximately 29,000 claims for refugee status during the year; as of August, 18,380 such claims had been approved.

In January the Supreme Court ruled that refugees facing torture in their home countries generally cannot be deported there, unless evidence shows that their continued presence poses a serious threat to national security. In June an Iranian suspected of being a trained government assassin was deported to Iran after claiming, but failing to show, that he faced a serious risk of torture upon return. The case of a Sri Lankan suspected of being a fundraiser for the Tamil Tigers who claimed that he would be tortured upon return to Sri Lanka remained pending after being remanded by the Supreme Court back to the Minister of Immigration. During the year, the country signed a "safe third country" agreement on refugees to return aliens previously resident in the United States to that country for adjudication of asylum. Human rights and immigrant groups criticized the agreement, which enters into force in 2003.

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

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

In November 2000, the last general election, the Liberal Party won a majority with 172 of 301 seats in the national parliamentary elections. The Canadian Alliance (conservative) won 66 seats, the Bloc Quebecois (separatist) won 38 seats, the New Democratic Party (liberal) won 13 seats, and the Progressive Conservative Party (conservative) won 12 seats. In August Jean Chretien of the Liberal Party announced his intention to step down as Prime Minister in February 2004. New elections will be held sometime between then and November 2005.

The governing party in the province of Quebec continued to maintain that Quebec has the right to withdraw from the Confederation if that decision proves to be the democratically expressed will of the residents of Quebec. The Supreme Court ruled in 1998 that a unilateral declaration of independence would be illegal, but that the Federal government and other provinces would be obligated to negotiate Quebec's separation if a clear majority of Quebecois voted to change their relationship with Canada on the basis of a clearly phrased referendum question. However, after the second defeat of a referendum in 1995, public support for holding another referendum has declined.

There are no laws limiting the participation of women or minorities in political life. In the Parliament, 63 of 301 members in the House of Commons were women, and 4 members were of aboriginal (Inuit, North American Indian, or Metis) origin. Of 105 senators, 31 were women and 6 were of aboriginal origin. Women held 10 seats in the 36-person Cabinet. In 1999 a woman was appointed for the first time as Chief Justice of the Supreme Court. The Governor General is a woman.

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

A wide variety of human rights groups 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 Based on Race, Sex, Disability, Language, or Social Status

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, sex, age, or mental or physical disability. These rights generally were respected in practice.

Women.—The law prohibits violence against women, including spousal abuse; however, it remained a problem. The Government's last general social survey, done in 1999, indicated that an estimated 8 percent of women (and 7 percent of men) who were married or living in a common-law relationship during the previous 5-year period experienced some type of violence committed by their partner on at least one occasion. The economic costs of violence against women are estimated to be \$2.7 billion (Cdn \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades, and there were 508 shelters for abused women across the country in 2000.

A total of 24,419 cases of sexual assault were reported in 2001, an increase of 370 cases from 2000. The courts consider such cases seriously and those convicted of sexual assault face up to 10 years in prison. Cases involving weapons, threats, wounding, or endangerment of life carry longer sentences, up to life imprisonment.

Prostitution is legal, but pimping (benefiting from the earnings of prostitution of another) and operating, being found in, or working in a brothel are not. Communicating in public for the purpose of prostitution (solicitation or "streetwalking") is also illegal, but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of sexual exploitation (*see* Section 6.f.).

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government generally enforced this provision. Women continued to complain of harassment in the armed forces, and the Government established mechanisms to try to resolve complaints (*see* Section 1.c.).

Women are well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. Women have marriage and property rights equal to those of men. Women head over 85 percent of single-parent households.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade 13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There is no societal pattern of abuse of children. Past institutional abuses of children (mostly orphans and aboriginal children) in residential homes continued to come to light, and the Government and churches which operated the homes sought to close, through class action settlements, more than 12,000 abuse cases filed by former residents. The Government announced a \$1.1 billion (Cdn \$1.7 billion) plan for the settlement of physical and sexual abuse claims, and the Anglican and Presbyterian churches agreed to contribute substantial amounts to the settlement fund.

Children were trafficked for purposes of sexual exploitation (*see* Section 6.f.).

Persons with Disabilities.—There is no legal discrimination against persons with disabilities in employment, education, or in the provision of other state services. Nevertheless, the Government continued to receive numerous complaints regarding societal discrimination against persons with disabilities and instituted programs to discourage such discrimination. Persons with disabilities were underrepresented in the work force; they constituted 2.7 percent of the federally regulated private sector work force, while those capable of working total 6.5 percent of the population. The Government instituted programs to help persons with disabilities to join the work force.

The law provides a variety of protections and rights for persons with disabilities and specifically prohibits discrimination against persons with disabilities in employment, education, or in the provision of public services. Sexual exploitation of persons with disabilities in situations of dependency is a criminal offense. The law requires employers and service providers to accommodate special needs of persons with dis-

abilities, unless it constitutes an undue hardship, and mandates access to buildings for persons with disabilities.

Indigenous Persons.—The Constitution recognizes three different groups of aboriginals: Indians (generally called First Nations), Inuit (formerly called Eskimos), and Metis (persons of mixed Indian-European ancestry). Aboriginals make up approximately 2.8 percent of the population. In the country's three territories, aboriginals constitute 20 percent of Yukon, 62 percent of Northwest Territories, and 84 percent of Nunavut. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on some reserves. Aboriginal persons remained underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

The Charter of Rights and Freedoms specifically protects aboriginal rights, including those established by historical land claims settlements; aboriginal rights also are recognized in the Constitution and by the courts. Historical treaties with aboriginal groups in eastern Canada form the basis for the Federal government's policies there, but some language with uncertain intent resulted in extensive legal challenges to the Government's interpretation of treaty rights. Aboriginal groups in the west that never signed historical treaties continued to claim land and resources, and many continued to seek legal resolution of outstanding issues. As a result, the evolution of the Federal government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

On February 7, the Government of Quebec settled a long-running dispute with the Cree Nation by signing an agreement that ensured the withdrawal by the Cree of all legal action related to Quebec's past application of the James Bay and Northern Quebec Agreement. The Cree consented to the development of hydro-projects in return for \$2.3 billion (Cdn \$3.6 billion) over 50 years, autonomy over economic and community development, and more control over how their land is managed. On April 9, Quebec signed an agreement with the 14 Inuit communities in the political entity of Nunavik, Northern Quebec, that provided them with full control of profits generated from resource development including hydropower exploration. On April 24, the Quebec government also announced an agreement-in-principle involving land transfers and resource-sharing, with the West North Shore Innu (Nitassinan). At year's end, the draft agreement had not achieved community consensus.

In 1998 the Government established the Aboriginal Action Plan, a "long-term, broad-based" policy approach to promote the quality of life of aboriginal people and promote self-sufficiency. According to Indian and Northern Affairs Canada, the Government budgeted \$4.5 billion (Cdn \$7 billion) for aboriginal programs in 2001–02. This money is intended to ensure that aboriginal persons have access to basic services (education, housing, water, sewage, health, and social) comparable to those provided to other citizens through provincial, municipal, and territorial governments.

During fiscal year 2000–01, the Government settled seven specific claims involving five First Nations, for a total expenditure of \$75 million (Cdn \$116 million). Since the inception of the program in 1992 through March 31, 2001, authorities had settled 227 specific and treaty land entitlement claims amounting to \$760 million (Cdn \$1.18 billion). However, First Nation leaders claimed that at the current rate of claim settlement, it will take the Government 150 years to settle all outstanding aboriginal claims. The Federal government continued to be involved in self-government negotiations with over 350 First Nations, and several self-government agreements-in-principle (agreed upon by negotiators) and a few final agreements were in advanced stages of negotiations at year's end. Professional development and fiscal accountability projects further supported indigenous self-governance.

In response to court decisions over the past few years, the Government continued working to resolve a variety of issues, including fishing rights in Atlantic Canada. Disputes over aboriginal fishing rights in Atlantic Canada continued after a 1999 Supreme Court ruling on the Marshall case that interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Federal government negotiated interim fishing agreements with all 34 aboriginal communities in Atlantic Canada, and longer term agreements were being negotiated at year's end. Other test cases that involve members of aboriginal groups being tried on charges of illegally harvesting timber on Crown land continued in the court systems in New Brunswick and Nova Scotia.

In 2000 the Federal and British Columbia governments concluded a treaty with the Nisga'a people who live in northwestern British Columbia. The treaty gave the Nisga'a control over 765 square miles of tribal lands, a cash settlement, fishing and

timber-cutting rights, and certain rights of self-government. The treaty ended a range of special tax breaks and other benefits available under previous arrangements. The treaty was ratified by the Nisga'a people in 1998 and by the provincial legislature in 1999. It was debated and passed by Parliament in 1999. Although the British Columbia legislature ratified the treaty, two groups challenged the treaty in court. The court of appeals ruled against a challenge from the Liberal Party that contended that the treaty should have been submitted to a referendum. A case brought by the Gitanyow, an indigenous group located near the Nisga'a, who contend that the treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a, remained pending in the courts at year's end.

In 1999 representatives of the Governments of Newfoundland and Labrador, the Federal government, and the Labrador Inuit Association initialed a land claims agreement for the Inuit. The plan provides for land, water rights, self-government, and an economic development plan that includes sharing revenues from subsurface developments. The plan has not yet been put into effect, as the parties were still negotiating a final, comprehensive land claims agreement.

National/Racial/Ethnic Minorities.—Support of a referendum on Quebec sovereignty has declined since the narrow defeat of the 1995 referendum.

The 1982 Charter of Rights and Freedoms protects the linguistic and cultural rights of minorities and established English and French as the country's two official languages. Despite the federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of the country generally live and work in the language of the majority. The provinces are free to grant French or English the status of an official language, or not to do so. Only New Brunswick has granted the two languages equal status. The Charter of the French Language in Quebec makes French the official language of the province and requires the use of French in commerce, the workplace, education, and government. Minority language rights are secured by law in Quebec's Charter of the French Language.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continued to protest restrictions placed on English-language use. English speakers also expressed concern over health services and public schooling in their language.

The Charter of the French Language restricts access to publicly funded English education only to those students who did most of their elementary or secondary studies in English in Canada. The law also limits English language education to those students with a brother or a sister who did most of their elementary or secondary studies in English in Canada or in cases in which the father or the mother did most of his or her studies in English in Canada. During the year, the Quebec National Assembly passed an amendment to the Charter of the French Language. This new law further limits access to English language schooling by no longer recognizing 1 year of private English language schooling in Quebec as fulfilling the eligibility criteria for an otherwise ineligible student to attend a publicly funded English school in Quebec.

Provinces other than Quebec often lack adequate French-language schooling and health services, which is of concern to local francophones, although French-language schools and French immersion programs were reported to be thriving in all three prairie provinces.

Section 6. Worker Rights

a. The Right of Association.—Except for members of the armed forces and some police, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations, which vary from province to province, for some public sector workers providing essential services.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent was unionized.

All labor unions have full access to mediation, arbitration, and the judicial system.

Unions are free to affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—All workers have the right to strike, except for those in the public sector who provide essential services. The

law prohibits employer retribution against strikers and union leaders, and the Government generally enforced this provision in practice.

Labor action, including strikes, occurred throughout the country during the year. Significant strikes during the year included: A 54-day strike by over 45,000 Ontario Public Service employees, which affected prisons, psychiatric hospitals, highway transport enforcement, government laboratories, probation and parole services, parks and tourist attractions, along with hundreds of government offices across Ontario; and a mid-summer 2-week strike by 25,000 municipal workers (including sanitation workers) that became known as the "garbage strike." The Pope's impending visit to Toronto pushed the provincial government to pass back-to-work legislation which forced workers back on the job and put an end to the strike.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced or bonded labor, including by children, and it generally did not occur; however, women and children were trafficked for the purpose of sexual exploitation (*see* Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor legislation varies from province to province. The Federal government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions were enforced effectively through inspections conducted by the federal and provincial labor ministries.

e. Acceptable Conditions of Work.—Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 per week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and ranged from \$3.54 to \$5.16 (Cdn \$5.50 to Cdn \$7.20) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage does not provide a decent standard of living for a worker and family. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and to remove themselves from hazardous work conditions.

f. Trafficking in Persons.—The 2001 Immigration Act outlaws trafficking in persons; however, trafficking remained a problem. The Immigration Act establishes criminal penalties of up to life in prison and fines of up to \$645,000 (Cdn \$1,000,000) for convicted traffickers. The country is a destination and a transit point to the United States for women, children, and men trafficked for purposes of sexual exploitation, labor, and the drug trade. There were no overall estimates as to the extent of the problem. There have been several widely reported cases of smuggling and trafficking, including hundreds of Chinese who arrived illegally by ship in British Columbia in 1999. There were reports that Honduran boys were trafficked to Canada for the purpose of drug trafficking. There were also reports that Mexican, Sri Lankan, and Haitian men and women were trafficked to Canada.

Vancouver and Toronto serve as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups targeted Canada, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Thousands of persons, including at least 15,000 Chinese, entered Canada illegally over the last decade. These persons come primarily from East Asia (especially China and Korea, also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country and were indentured to their traffickers upon arrival. Almost all trafficked persons worked at lower than minimum wage and used most of their salaries to pay down their debt at usurious interest rates. The traffickers used violence to ensure that their clients pay and that they do not inform the police. Asian women and girls who were smuggled into Canada often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep these victims from running away or informing the police.

In March 2001, police arrested 9 persons involved in an international trafficking ring suspected of illegally transporting about 1,200 Korean and Chinese citizens through the country into the United States. Many of those who entered the United

States illegally were women under the age of 20 and were destined to work in a position of debt bondage to restaurants, factories, and brothels.

In November 2001, Vancouver police cracked a prostitution ring, and the authorities deported 11 Malaysian women, at least half of whom said that they had been coerced into prostitution by a man who seized their passports upon arrival in the country.

The Government reconvened an Interdepartmental Working Group on Trafficking in Women. There were no government-sponsored programs to help victims of trafficking; however, the Government funded NGO assistance programs. Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act. Some victims of trafficking were arrested and deported. In prostitution cases, often the prostitute instead of the customer was arrested. If in the country illegally, the prostitute may face deportation, especially after committing a crime. Local authorities to some degree lacked awareness about the victims of trafficking, which is compounded by the fear many victims have of telling the authorities about the crime committed against them.

CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and retains certain institutional limits on popular rule. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. He defeated center-right candidate Joaquin Lavín of the Alliance for Chile coalition. All three presidents elected since the country returned to democracy in 1990 have been members of the four-party "Concertación" coalition. The National Congress consists of 120 deputies and 48 senators; this includes 9 designated senators and 1 former president who is senator-for-life. On July 4, former President Augusto Pinochet resigned his position as senator-for-life. The Concertación coalition held a 63–57 majority in the lower house. The Senate was divided 24–24 between pro-Lagos legislators and the opposition. The Constitution provides for a judicial system independent of the other branches of government.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. Most notably the President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order, safety, and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations are under operational control of the Ministry of Interior. Some members of the police committed human rights abuses.

In 1999 the export-led free-market economy experienced its first recession after 15 consecutive years of expansion, and the economy has yet to regain its pre-1999 dynamism. The population is estimated at approximately 15.4 million. Economic growth for the year was 1.9 percent with inflation of 2.8 percent. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Unemployment averaged 9 percent during the year. The percentage of the population living below the poverty line decreased from 45 percent in 1987 to 20.6 percent in 2001.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious problems continued to be excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees sometimes were not advised promptly of charges against them nor granted a timely hearing before a judge. Antidefamation laws adversely affected journalists and authors. The authorities occasionally used force against protesters. Discrimination and violence against women and children continued to be problems. Indigenous people remained marginalized. In December 2001, a new labor code was introduced that increased protections for such fundamental worker rights as the right to organize and bargain collectively. Child labor was a problem in the informal economy. Chile was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

During the year, the Government, primarily the judiciary, took significant steps to allow for the investigation of human rights abuses committed during the former military government and to bring those accountable in certain cases to justice. In

January the armed services, religious groups, and human rights leaders provided some information on the manner of death and fate of 200 persons who disappeared while in official custody during the Pinochet regime; however, military authorities were unwilling or unable to provide a full accounting for the fate of many of the 3,000 persons who disappeared or were killed. On July 2, the Supreme Court ruled that former President Pinochet was mentally unfit to stand trial, and ended all legal proceedings against him in the Caravan of Death case. There was no appeal of this decision. Subsequent rulings in other cases indicated that the same criteria would be used to block legal proceedings in all criminal cases brought against the former president.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Other Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

A number of cases from previous years in which the police were accused of extrajudicial killings due to excessive use of force or mistreatment of prisoners while in custody remained under investigation or pending resolution of appeals.

The family of Carlos Antonio Millaman Munos was successful in reopening the investigation into his January 2000 death. The case had been on hold due to failure to prove that a crime had taken place. Millaman had been detained on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), persons who visited him at the headquarters of the Investigative Police in the Santiago suburb of La Florida reported that he was in bad physical condition and feared for his life; he was transferred to the El Salvador hospital where he died later in the day.

In 1999 a court sentenced four police officers to 10 years in prison for the death of Raul Palma Salgado, who died in police custody in 1998 after police allegedly tortured him. After an appeal process, their sentence was reduced by a court martial. In August the Supreme Court restored the original sentence.

In December the investigation into the case of the 1989 murder of leftist leader Jecar Nehgme was delegated to Judge Hugo Dolmestch, who also was responsible for investigating the case known as Operation Albania—the June 1987 killings of 12 Manuel Rodriguez Patriotic Front (FPMR) members—because those responsible for the two crimes are thought to be the same. The investigation continued at year's end.

In 2000 former President Pinochet returned to Chile where he faced charges in numerous human rights cases. The investigation of the most prominent of these cases, known as the Caravan of Death, led to a Supreme Court decision in August 2000 that lifted Pinochet's parliamentary immunity. In January 2001, Judge Juan Guzman indicted him as the intellectual author of 57 homicides and 18 instances of kidnaping; an appeals court later reduced the charges to engaging in a coverup of the crimes. Pinochet was placed under house arrest and subsequently freed on bail. On July 2, the Criminal Chamber of the Supreme Court ruled that Pinochet was mentally unfit to defend himself against charges stemming from the Caravan of Death case; the ruling was based on psychiatric and neurological exams. There was no appeal. Subsequent rulings in other cases indicate that, for the same reasons, no criminal action against Pinochet is likely to occur. Following the court decision, Pinochet resigned his seat in the Senate taking advantage of a law that offers certain privileges to former presidents, including legal immunity.

The August 2000 ruling by the Supreme Court lifting Pinochet's immunity in the Caravan of Death case included an opinion by the majority indicating that the Amnesty Law (covering human rights violations from 1973 to 1978) and the statute of limitations should be applied only after the circumstances of the crime and the guilty party have been identified. Nevertheless, several judges (particularly in courts-martial) continued to close cases under the Amnesty Law without completing an investigation into the circumstances of the crime. On December 3, the Supreme Court reaffirmed its earlier opinion by ordering that a previously closed investigation into the disappearance of Hector Contreras be reopened, and transferred the case from military jurisdiction to a civilian court. The Foundation for Social Help of Christian Churches (FASIC), the CODEPU, and other human rights organizations have several denial-of-justice cases pending before the Inter-American Commission on Human Rights (IACHR) regarding previously closed disappearance and execution cases. Denial-of-justice cases based on application of the Amnesty Law also have been filed with the U.N. Commission on Human Rights (UNCHR).

In April in the case of Operation Albania, Judge Hugo Dolmestch indicted 16 former military and police officers, including retired army General Hugo Salas

Wenzel, as well as 2 civilians. At year's end, the judge had not issued indictments in the related case involving the 1986 deaths of journalist Jose Carrasco and three other persons.

On August 5, the judge investigating the 1982 killing of labor leader Tucapel Jimenez sentenced six persons (including two retired generals) as authors of the crime, two as accomplices and four as involved in the coverup. Only those charged as authors received jail sentences. The others were given parole for varying periods of time. Four of the accused were absolved. The labor union that Jimenez led before his death appealed the verdict and sought harsher sentences.

In June 2001, the Supreme Court upheld the ruling of a lower court not to reopen the case of Carmelo Soria, a Spanish citizen working for the U.N. and killed in Santiago in 1976. Nevertheless, in December the Government reached a settlement with the family, including monetary compensation of \$1.5 million (1.1 billion pesos), recognition of Soria's diplomatic status, and an agreement to ask the Supreme Court to reopen the case. The high court's decision was still pending at year's end.

On September 10, in response to an extradition request from Argentina, the Santiago Appeals Court ruled not to lift Augusto Pinochet's immunity (as a former president), arguing that his poor mental and physical health prevented him from standing trial for his role in the 1974 car bombing in Buenos Aires that claimed the lives of former Chilean army chief Carlos Prats and his wife Sofia Cuthbert. In October 2001, a judge ordered the preventive arrest of four retired generals and a civilian as a first step in processing their extradition for the same crime. On December 3, the Supreme Court decided that, rather than extraditing the accused, they would be tried in the country.

The investigation continued into the death of Charles Horman, a U.S. citizen killed after being detained by security forces following the 1973 coup d'etat. On October 11, the case was transferred from investigating Judge Juan Guzman to Judge Jorge Zepeda.

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

In January 2001, through the Defense Ministry-sponsored Human Rights Roundtable Dialog, the armed forces provided information on the whereabouts of 200 persons who disappeared while in official custody during the Pinochet regime. All of the information was made public, but some of the information provided was found to be inaccurate. In addition, subsequent investigations have shown that the Air Force did not hand over all the information that it had collected. In October obstruction of justice charges were brought against Patricio Campos, the recently-resigned fifth-ranking general of the Air Force. The Communist Party and the Group of Families of the Disappeared subsequently initiated two lawsuits for obstruction of justice against former general Patricio Rios, the recently-resigned head of the Air Force. Investigations continued at year's end.

While noting the value in having the armed forces officially acknowledge the commission of human rights abuses during the Pinochet regime, President Lagos stated that there remained more than 600 cases of missing persons about whose whereabouts no information had been provided. The Ministry of Justice authorized 20 judges to dedicate their time exclusively to cases of disappearances and another 51 judges to give preference to the investigation of such cases. As a result of their work, the remains of a few dozen victims were found and identified, and some of the perpetrators of the crimes were charged.

Investigations of military-era detentions and disappearances of persons at Colonia Dignidad (now called "Villa Baviera"), a secretive German-speaking settlement 240 miles south of Santiago, made no further progress during the year. Paul Schaefer, who immigrated from Germany in 1961 with 300 followers, founded the 34,000-acre enclave. In April 1999, Judge Guzman issued a detention order against the 79-year-old Schaefer for the kidnaping and disappearance in 1974 of Alvaro Vallejos in the vicinity of Colonia Dignidad. Schaefer, also wanted by the authorities on other charges, remained a fugitive at year's end. In October 2000, the authorities arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke but he must stand trial first in connection with Vallejos's disappearance and two other charges that remained under investigation at year's end. Muecke remained in custody at year's end.

In 1985 Boris Weisfeiler disappeared near Colonia Dignidad under circumstances that have yet to be fully clarified. The case was reopened, and it remained under investigation at year's end.

Of the 1,156 persons who disappeared under the military regime, the remains of more than 900 have yet to be found. The Government agency in charge of the compensation program for the families of those executed or who disappeared under the military regime recognizes 3,197 victims of the Pinochet era. These include 2,095 victims in which circumstances of death have been established and 1,102 cases in

which the persons disappeared. Survivors of the victims receive pensions, educational benefits, and other assistance. During the year, monthly pension benefits, distributed to an average 3,441 eligible survivors (spouse, mother or father, and children), were approximately \$9.5 million (6.3 billion pesos). From 1992 through 2001, the program distributed well over \$87 million (57.8 billion pesos).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution forbids the use of excessive pressure on detainees and the law provides that if a member of the police force uses “torture or unlawful coercion,” either physical or mental, orders them to be applied, or commits them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the “necessary power and authority” to prevent or stop it also would be considered accessories to the crime if they fail to do so. The CODEPU found that this law had an important impact on the conduct of the Investigative Police, but less so in the case of the Carabineros. Still, reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards were on the rise. Few of these reports lead to hearings in court and even fewer led to convictions.

In 2001 the Latin American Faculty of Social Sciences (FLACSO) published a report on court complaints filed about police violence, which indicated that such reports more than doubled over the last decade. The author speculated that some but not all of the increase may be attributable to an increased willingness on the part of citizens to report police mistreatment and the rise in arrests for certain types of crimes.

According to the FLACSO study, in 1995–96 the Government Corporation for Judicial Assistance in Santiago received 195 accusations of mistreatment by the police at the moment of arrest in 1995–96, 400 in 1997, 815 in 1998, 1,107 in 1999, and 1,074 in 2000. Of a total of 3,591 cases, only 200 were brought before a judge. Usually countercharges of violence against police officers were filed and these cases were sent to a military court. The CODEPU was aware of only 12 cases in which the civil judge retained jurisdiction and notes that of 173 cases brought before military tribunals, only 6 resulted in convictions. The CODEPU was unaware of any case in which a member of the Investigative Police has been convicted.

No new information has become available regarding the mistreatment of military conscripts during the year.

During the year, there were instances of violent confrontations between radical Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country (*see* Section 5). The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. On November 11, an activist was shot and killed in a confrontation with the police. Several Mapuches were arrested in connection with acts of violence.

Police occasionally used force against protesters (*see* Section 2.b.).

In 2001 courses in human rights became part of the core curriculum in police academies for both rank and file police and officers. During the year, similar courses were introduced at the academy for prison guards and officials.

Prison conditions were generally poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. In March overcrowding led to a prison riot in Valdivia in which part of the prison was destroyed by fire. Several guards and prisoners were injured although there were no fatalities. The prison, built for 200 inmates, housed more than 600. In 2001 a fire broke out in the prison in Iquique that led to the death of 26 prisoners. A police investigation into the circumstances surrounding the fire and the subsequent response by prison officials continued at year's end. The Ministry of Justice announced a \$5 million (3 billion pesos) program in all prisons to develop contingency planning for emergencies and prevent such incidents from occurring in the future.

The Government recognized that overcrowding in prisons continued to be a problem. The Ministry of Justice stated that in October 2001 there were 34,335 prisoners in prisons designed to lodge 23,025 inmates, a situation that remained unchanged during the year. In 2001 the Ministry of Justice opened bids on 3 new prisons, to be completed in December 2003 and designed initially to house 4,800 prisoners. These prisons are part of a plan to construct 10 new prisons in the next several years, to house an initial population of 16,000 prisoners. Even with this ambitious construction program, the growing prison population is projected to continue to exceed the space available. Food met minimal nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds often can “rent” space in a better wing of the prison.

Although most analysts state that the guards generally behave responsibly and do not mistreat prisoners, prisoners have complained to CODEPU about beatings,

and the courts have received numerous complaints of mistreatment of prisoners. Prison guards have been accused of using excessive force to stop attempted prison breaks. The Supreme Court expressed particular concern over the sanitary conditions and treatment of prisoners in the Colina II prison's Alfa high security unit. In January 26 prisoners were treated for self-inflicted wounds in protest of their conditions. An investigation ordered by the Supreme Court found evidence of physical mistreatment of the prisoners. The Santiago Appeals Court ordered the unit closed until improvements were made. No one was charged by year's end.

The Minister of Interior asked the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often did not result in arrests due in part to the reluctance of judges to pursue the issue vigorously. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

When requested by other human rights organizations or family members, CODEPU lawyers visited detainees during the interrogation and represented some suspected terrorists in court. The CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned about the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental deficiencies who often did not receive adequate medical attention.

Pretrial detainees generally were not held with convicted prisoners. Women generally were housed in separate facilities, which tend to be less crowded and with somewhat better conditions than men's prisons.

By law juvenile offenders (those under the age of 18) were segregated from adult prisoners. According to the latest available figures, there were 422 minors in adult prisons at the end of 1998. However, in September the Supreme Court admonished police officials for failing to keep minors sufficiently separated from adult offenders and ordered prison officials to correct this deficiency. Separation of minors was a concern especially when a minor initially was detained before being brought to court. A study by Diego Portales University determined that in 2001, of the 10,748 minors detained, 37.3 percent were initially held in adult facilities. The National Minors Service began construction of two juvenile detention centers during 2001 and two more during the year.

The Government permits prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution states that no one can be arrested or detained except by a public official expressly authorized by law. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be arrested or detained except in their house or a public facility designed for that purpose. Provisional liberty must be granted unless a judge decides that detention is necessary to pursue the investigation or for the protection of the prisoner or the public. The accused cannot be obliged to testify against himself. The authorities generally respected constitutional provisions for arrest and detention; however, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access; however, a 1994 study by Diego Portales University indicated that, at that time, 23 percent of the detainees interviewed said they had had no contact with a lawyer.

The most recent statistics available showed that at the end of 1999, 8 percent of the general prison population of 24,791 were under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

The law requires police to inform those detained of their rights, to expedite notification of the detention to family members, and eliminates the ability of police to demand identification from or stop persons based solely on suspicion. The law also prohibits physical abuse by police against detained persons (*see* Section 1.c.). The Constitution allows judges to set bail.

There were no cases of forced exile; however, a number of people convicted of terrorism have had the remainder of their sentences commuted to exile.

e. Denial of Fair Public Trial.—The Constitution provides for a judicial system independent of the other branches of government. Most sitting judges come from the career judiciary. All judges are appointed for life. A 1997 Constitutional reform set 75 as the age limit for Supreme Court justices, gave the Senate the right to veto presidential nominations to the Court, and increased court membership from 16 to

21. It also mandated that five members of the Supreme Court must be civilians from outside the career judiciary. The Supreme Court prepares lists of nominees for all members of the Supreme Court and appeals courts, from which the President makes nominations. Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. The Supreme Court continued to work with the other branches of government on broad judicial reform.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros, the military prosecutor asks for jurisdiction, which the Supreme Court sometimes has granted. This is of particular consequence in human rights cases from the period covered by the Amnesty Law. Military courts are much more inclined to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer are brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts (*see* Section 2.a.). They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and appeals ultimately may be heard by the Supreme Court. The primary difference in the military court system is that the initial investigation and charges are brought by a military prosecutor and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

A 1997 judicial reform law created the post of Attorney General, with a 10-year term, and an office of support staff that was in full operation during the year. An office of Public Defender also was established to provide professional legal counsel to anyone who should seek such assistance (*see* Section 1.d.). The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in December 2000, with oral trials in 2 of the 13 political regions. At year's end, eight regions had begun to implement the reform. Initial reports indicated that the reform resulted in a more transparent process, greater respect for defendants' rights, and speedier trials.

The preexisting criminal justice system did not provide for oral trials. In those regions where the judicial reform law has yet to be implemented, criminal proceedings were inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases, have not always received effective legal representation. They usually were represented by someone from the Government's legal assistance corporation, often a law student finishing his or her studies and doing a mandatory internship. On occasion the court may appoint a lawyer.

There were no reports of political prisoners, although 57 inmates in Santiago's maximum-security prison all charged with terrorist acts following the return to democracy routinely claimed to be political prisoners. Their cases have been pending for 10 to 12 years before a military court. They have yet to be convicted or sentenced.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. A privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Human rights groups criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them; the Government revoked one such law and sought to revoke others, but cases were still brought during the year.

The press maintained its independence, criticized the Government, and covered issues sensitive to the military, including human rights cases.

In 2001 President Lagos signed a law on freedom of the press that eliminated a provision under the 1958 State Security Law that made it a criminal offense to besmirch the honor of state institutions and their members and symbols, such as the Congress, the Supreme Court, the military services, the flag, and the President. Before its revocation, individual government officials occasionally had invoked the pro-

vision. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (*see* Section 1.e.).

Despite the new press law, the Penal Code still prohibits insulting state institutions such as the presidency, as well as legislative and judicial bodies. In December the president of the Supreme Court brought charges against a talk show participant who, commenting on the case of a woman who spent 3 years in prison for a crime for which she ultimately was absolved, accused the justice system of being immoral, cowardly, and corrupt. He was imprisoned briefly and released on bail. The case was still pending at year's end. The Government sought priority action in Congress on a bill that would remove these provisions protecting government officials.

In December 2001, the president of the State Defense Council brought private libel charges against *El Mercurio* newspaper for criticism of her performance of official duties and the suggestion that she resign. She had to bring charges on a private basis because the State Defense Council is not one of the institutions covered against libel in the Penal Code. The case was still pending at year's end.

A 1996 privacy law set penalties for those who infringe on the private and public life of individuals and their families; however, the privacy law has never been applied to the media.

Two major media groups controlled most of the print media, which largely were independent of the Government. The Government is the majority owner of *La Nacion* newspaper, but its editorial content is not under direct government control. Investigative journalism made significant strides forward when *La Nacion* reported on the alleged withholding of information on human rights violations under the military regime by the Air Force and in addition, when several leading private newspapers broke stories on alleged bribery within congress and the Ministry of Transportation and Public Works.

The broadcast media also largely were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and was self-financing through commercial advertising. It is editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflect various political viewpoints, and the board encouraged the expression of varied opinions over the network.

The National Television Council (CNT), supported with government funding, is charged with assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent or to have obscene language or sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice the ever-increasing volume of programming made the CNT's job all but impossible. The CNT issued occasional warnings to networks and cable providers and sometimes obliged them to postpone the showing of certain films until after 10 p.m. It also occasionally levied fines. Debate continued over the CNT's role during the year.

On July 11, the Congress approved a constitutional reform designed to put an end to film censorship and established a film classification system to take its place. The new classification system was scheduled to begin operating in January 2003. Following a 2001 ruling criticizing the Supreme Court's 1997 decision to uphold the 1989 ban on the exhibition of the film "The Last Temptation of Christ," the IACHR gave the Government 60 days to explain what steps had been taken to end censorship and allow exhibition of the film. At year's end, the film had still not been exhibited commercially in the country.

On December 4, a Santiago court ordered police to seize immediately all existing copies of journalist Cristobal Pena's book "Cecilia, La Vida en Llamas". The book is an unauthorized biography of pop diva Cecilia Pantoja and the removal order came after the singer filed a libel suit against the author. The book no longer was on sale in bookstores pending an appeal by the author.

The courts may prohibit media coverage of legal cases in progress but did so rarely. The press began using foreign Internet web sites to publish articles when gag orders were issued. The Government did not restrict use of the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble peacefully, and the Government generally respected this right in practice; however, police occasionally used force against demonstrators.

In April police arrested more than 100 students protesting the cost of student bus passes in Santiago. In June police used tear gas and water cannons to break up a student protest in Valparaiso over the financing of university studies. In August po-

lice arrested more than 60 students and several persons were hurt during a student protest over the cost of bus transportation in Santiago. In early September, police arrested 12 persons and again used water cannons and tear gas in Valparaiso when students commemorating victims of the military dictatorship began erecting barricades and throwing Molotov cocktails. On the anniversary of the September 1973 coup 505 protesters (445 from around the city of Santiago and 60 elsewhere in the country) were arrested. There were 14 policemen injured (4 seriously). One person attempting to erect a barricade was injured.

On October 16, one person was injured and 22 arrested when police broke up a hip hop concert. An amateur video showed what appeared to be unnecessary force by the Carabineros, leading the Corporation to Defend the Rights of Juveniles (CODEJU) to bring a lawsuit against the Carabineros.

The Constitution provides for the right of association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Church and State officially are separate; however, the Roman Catholic Church continued to receive some preferential treatment. All denominations practiced their faiths without restriction.

A 1999 law on religion, designed to bring other religious entities in line with the legal status enjoyed by the Catholic Church, went into effect in March 2000. The law bestows the same legal status that the Catholic Church previously enjoyed upon all other faiths and removed the ability of the State to dissolve religious entities by decree. Instead, this only can occur after a judicial review begun by a complaint filed by the autonomous State Defense Council.

Many of the approximately 2 million Protestants, who represent about 12 percent of the population according to the latest census (1992), asserted that the Government has discriminated against them. They cited the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools. Military recruits, whatever their religion, were required at times to attend Catholic events involving their unit. The new law grants other religions the right to have chaplains in public hospitals, prisons, and military units, and the presence of Protestant ministers in these institutions was on the rise. In August Minister of Defense Bachelet promised that all branches of the military would have Protestant chaplains. In December 2001, President Lagos designated Methodist Bishop Neftali Aravena as copastor for the chapel located in the Presidential Palace. Aravena is the first non-Catholic pastor assigned to the chapel in the Presidential Palace. A Protestant representative also was given equal protocol status with the Roman Catholic Cardinal at official events.

In July 2001, the President promulgated new regulations reinforcing a prisoner's right freely to profess the religion of his or her choice. The regulations require prisons to develop areas for worship and to enlist Protestant and Catholic chaplains to hold services. As much as 70 percent of the prison population is estimated to engage in religious activities, primarily evangelical or Catholic.

Schools were required to offer religious education twice a week through middle school; enrollment in religious classes is optional for students. It was mandatory to teach the creed requested by parents, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith; however, more schools offered non-Catholic alternatives for religious education. The mayor of Santiago pledged in September that all schools in the municipality would offer an evangelical alternative.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. In order for minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from the nonaccompanying parent(s).

The law includes provisions for granting asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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 citizens 18 years of age and over. In January 2000, voters elected Ricardo Lagos, of the Socialist Party, as president in a free and fair runoff election. He defeated center-right candidate Joaquin Lavín of the Alliance for Chile coalition. Lagos is a member of the center-left Concertación coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The legislative branch, with the exception of 10 nonelected senators among the 48 members of the upper house, is elected freely and is independent from the executive branch. In December 2001, free and fair congressional elections were held for all 120 seats in the lower house and 18 of the 38 elected seats in the Senate. The elections resulted in a 24–24 split between pro-Lagos senators and those of the opposition and narrowed the Concertación coalition's lead in the lower house from 70–50 to 63–57.

The Government still operates under some political restraints that the military regime imposed. Under the 1980 Constitution, various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—appoint an additional nine Senators (beyond those elected) to 8-year terms. In addition, former President Frei exercised his option to become a senator-for-life. Former President Pinochet resigned his senator-for-life position in July (*see* Section 1.a.).

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and places limits on majority rule. These provisions include limitations on the President's right to remove the commanders in chief of the three armed services and the Carabineros, certain types of legislation that require supermajorities, and the provision for nonelected senators. In January the IACHR issued a resolution criticizing the existence of designated senators and senators-for-life and urged the Government to end the practice. In October 2000, a Senate Commission (including two designated Senators) unanimously approved a proposal that would abolish these positions starting in 2006; however, at year's end, Congress had not passed legislation codifying this and other proposals for constitutional reform.

Women have the right to vote and were active in all levels of political life, including grassroots movements. There were no legal impediments to women's participation in government and politics. There were 15 women among the 120 deputies, 2 women in the 48-seat Senate, and 5 women among the 16 cabinet ministers. In October 2001, President Lagos appointed the first woman ever to serve as 1 of the 21 justices of the Supreme Court.

The approximately 1.2 million indigenous people have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledge indigenous descent.

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

Several human rights Nongovernmental Organizations (NGOs) were active; however, many faced difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The Foundation for Social Help of the Christian Churches continued to be active on the full range of human rights issues and tracked the status of many human rights cases, especially those involving the military. The CODEPU and the Corporation to Defend the Rights of Juveniles greatly reduced their scope of activity during the year. The Government cooperated with domestic NGOs efforts to investigate accusations of human rights violations. Many international NGOs also followed human rights issues closely.

In May 2001, the Minister of Interior created an advisory council to oversee a new autonomous state agency created to protect and promote human rights. The agency helped the Legal Medical Service identify the remains of those who disappeared during the Pinochet regime; cooperated with the judiciary in designating special judges to investigate disappearances; and, through the Ministry of Defense, has worked with the armed forces to obtain more information (*see* Section 1.b.).

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equality before the law and the Government generally respected these provisions. In 1999 Congress amended the Constitution to emphasize the principle of equality between men and women and stated that "persons are born free and equal in their dignity and rights." The new Labor Code prohibits discrimination based on race, color, sex, age, marriage status, union membership, religion, political opinion, nationality, national origin, or social status (*see* Section 6.a.); however, such discrimination occurred in practice.

Women.—Serious problems affecting women included sexual and domestic violence. During the year, the National Women's Service (SERNAM), which combats discrimination against women, conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. A 1994 law specifically addresses violence within the family. A study done in July 2001 by the University of Chile indicated that more than half the women in the country have experienced violence in their relationship with their partner. The study calculates that 34 percent of women have been subject to physical violence (of which 14.9 percent was sexual violence) and another 16.3 percent have suffered psychological violence. Since the law on intrafamily violence went into effect, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999. In July 2001, SERNAM and more than 70 NGOs initiated a campaign that included prominently displayed posters and other activities designed to increase public awareness of the problem of violence against women and reduce its occurrence.

The courts may order counseling for those involved in intrafamily violence. At year's end, there were 17 government and 8 private centers to attend to victims of intrafamily violence. The Investigative Police had a special office that provided counseling for rape victims. The Ministry of Justice also had several offices located throughout the country specifically for assistance in rape cases. There were a number of NGOs such as La Morada that provided counseling.

The law took effect increasing the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and to protect the privacy and safety of the person making the charge. The Citizens' Peace Foundation indicated that there were 1,373 cases of rape reported to the police in 2001, 1,250 in 2000, 1,297 in 1999, and 1,052 in 1998. Experts believe that a majority of rape cases go unreported.

Adult prostitution is not expressly illegal. Police habitually detained prostitutes (usually as a result of complaints by residents of the neighborhood) and accuse them of "offenses against morality," which can lead to a \$70 (50,000 pesos) fine or 5 days in prison.

There were no laws against sexual harassment, although it was generally recognized as a problem.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. A 1994 law created conjugal property as an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A July 2001 SERNAM study found that the average earnings of women were 68.2 percent of those of male heads of household. Women with no schooling averaged a salary that was 81.3 percent that of their male counterparts. The minimum wage for domestic helpers (who are thought to number 300,000 in what is probably the largest single category of working women) was only 75 percent of the standard minimum wage (*see* Section 6.e.). Women with university training averaged 53.4 percent as much earnings as their male counterparts. The Labor Code provides specific benefits for pregnant workers and recent mothers; these also apply to domestic workers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them, although the La Morada Corporation for Women has received reports that the practice continued in some companies.

Children.—The Government provides free education through high school; education is compulsory from first through eighth grade.

Violence against children was a serious problem, although it appeared to be declining. A survey of 8th grade students by UNICEF comparing the incidence of mistreatment from 1994 to 2000 showed that in 1994, 63 percent of children had been

subject to some sort of physical violence compared with 54 percent at the end of the period. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 34 percent to 25 percent.

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 mistreated children for the first 6 months of that year; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that 9,723 cases of abuse were brought to its attention in 1998. From mid-1998 to December 1999, the SENAME brought to the courts 713 cases for child abuse, 314 for rape, 292 for sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. SENAME lawyers received specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the Director of the organization. A report from the La Morada Corporation for Women released in 1999 estimated that there were 20,000 cases of sexual abuse of children every year.

A 1996 UNICEF report stated that 34 percent of children under 12 years of age experienced serious physical violence, although only 3.2 percent of the victims of intrafamily violence reported to the Carabineros family affairs unit were below the age of 18. A 1994 law on intrafamily violence was designed in part to address this problem. According to UNICEF, some form of corporal punishment was used by one or both parents in 62 percent of households.

Child prostitution was a problem (*see* Section 6.f.).

Police and social workers make an effort to identify and place child prostitutes found on the streets in juvenile homes.

Persons with Disabilities.—The law promotes the integration of persons with disabilities into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 1992 census found that 288,000 citizens said that they had some form of disability. Persons with disabilities still suffer some forms of legal discrimination; for example, blind persons cannot become teachers or tutors. Although the law requires that new public buildings provide access for persons with disabilities, the public transportation system did not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provided facilitated access for persons with disabilities only in some areas.

Indigenous Persons.—Approximately 1.2 million persons identify themselves as indigenous. The Mapuches, from the south, account for approximately 930,000 of this total. There are also small Aymara, Atacameño, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. Of the population that identifies itself as indigenous, approximately one-half remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources was marginal. Indigenous people also experienced some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people were elected directly as representatives to this body in 1995 and 1999. It advises and directs government programs that assist the economic development of indigenous people. In May 2000, the Commission for Truth and New Treatment appointed by the Lagos administration proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, the Commission for Truth and New Treatment became permanent, with a mandate to find ways to facilitate the participation of Mapuche and other indigenous populations in the formulation of national policies affecting them. The commission met during the year and is charged with issuing a report by June 2003.

Land occupations and other violence by isolated Mapuche Indian groups against private forestry companies occurred through much of the year (*see* Section 1.c.). Police arrested nine Mapuches following a land seizure in March. In April, in two separate instances, trucks carrying lumber were set on fire; no persons were injured. The police charged two Mapuches in one of the incidents. Approximately a dozen Mapuches briefly occupied the offices of the European Union protesting the Government's handling of Mapuche land issues and its treatment of indigenous people.

On November 7, a Mapuche activist was shot and killed in a confrontation with police. This incident led to a rise in protests and confrontations. In December seven leaders of the activist group Coordinadora Arauco-Malleco were arrested and jailed

as suspects in an attack on a forestry plantation in December 2001. They face charges for terrorist acts and for being part of an illicit association under the State Security Law.

Several Mapuche families continued to object to exchanging traditional lands for other property as part of the Ralco hydroelectric project. Sixty-seven families accepted economic inducements to move to other land but six families involved continued to object to Ente Nacional de Electricidad's (ENDESA) effort to have them resettled. In March police used tear gas and bullets to turn back protesters armed with Molotov cocktails, sticks, and stones in an attempt to block construction of the dam. More than 50 protesters were arrested and 15 injured. In June a small bomb blew out windows at the Chilectra headquarters (owned by ENDESA) in Santiago. In December one of the six families reached a financial settlement with the company. The others subsequently entered into negotiations with ENDESA.

The Ninth region, which is mainly Mapuche, is one of the regions using the new criminal justice system (*see* Section 1.e.). Because of a rise in cases stemming from violent actions, some indigenous leaders saw the new system as a way to target and repress the Mapuche; these feelings of distrust may represent a lack of understanding of the new system, which in fact provided them with enhanced rights.

The Government was preparing a response to a 1999 suggestion from the U.N. Committee for the Elimination of Racial Discrimination that the Government apologize to and compensate indigenous people for their historical treatment, and explicitly outlaw racial and ethnic discrimination.

National/Racial/Ethnic Minorities.—The country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. There are also smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans, who experienced some societal intolerance.

Section 6. Worker Rights

a. The Right of Association.—Workers have the right to form unions without prior authorization and to join existing unions. The work force was estimated at 5.87 million persons, of whom 3.7 million were salaried. Union membership was approximately 580,000, or roughly 10 percent of the work force. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

The Labor Code permits nationwide labor centrals; the Unified Workers Central (CUT) was the largest and most representative of these. Labor unions were effectively independent of the Government, but union leaders usually were elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials were not restricted, although currently serving union officials are not allowed to hold public office. Registering a union was a simple process. In December 2001, a major reform of the Labor Code went into effect. Among various other provisions aimed at facilitating the formation of unions and promoting collective bargaining, the reform freed unions from government regulation of their internal organization and permitted unions to be structured along geographic as well as functional lines.

Amendments to the Labor Code resulting from the 1981 reform placed additional limits on the causes for dismissal (for example, misconduct outside the workplace no longer was grounds for dismissal) and significantly increased the penalties for unjustified dismissals. Employees who believe they have been dismissed unfairly or dismissed owing to their trade union activities file complaints with the Ministry of Labor and ultimately, the labor tribunals. According to the revised Labor Code, if the dismissal is found to be related to trade union activity on the part of the employee, he or she may choose between reinstatement with back wages or an additional compensatory payment. The burden of proof rests with the employer in cases in which alleged illegal antiunion activity is supported in a report by a labor inspector.

During the year, there continued to be allegations that employers dismissed workers for union activity and attempted to avoid a complaint by immediately paying them some multiple of the normal severance pay. During the year, labor leaders complained that companies invoked the law's needs-of-the-company clause to fire workers after a union had signed a new contract even though penalties for doing so without justification have been increased. Workers often were reluctant to contest these actions because of the huge backlog in the Labor Tribunals. This is expected to change since the Labor Directorate may become a party to these cases.

The CUT and many other labor confederations and federations maintained ties to international labor organizations.

b. The Right to Organize and Bargain Collectively.—Employees in the private sector have the right to strike; however, the Government regulates this right, and there were some restrictions. The law permits replacement of striking workers, subject to the payment of a fine that is distributed among the strikers. Public employees in theory do not enjoy the right to strike, although government teachers, municipal, and health workers have gone on strike in the past. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the public sector. Strikes by agricultural workers during the harvest season were prohibited.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers.

There were a number of strikes during the year. In May 2001, a strike against the bicycle manufacturer Bianchi received considerable attention when one of the striking workers was struck and killed by a bus carrying nonstriking workers attempting to enter the facility. The case remained under investigation for possible criminal charges at year's end. Eight workers were fired after the strike ended.

Despite legal provisions for collective bargaining, before the modifications that went into force in December 2001, the Labor Code included provisions that made it difficult for trade unions to organize in many sectors.

Union officials and the Ministry of Labor have indicated that the modifications of the Labor Code have made union organizing easier and preliminary data on new union formation after December 2001 appear to confirm those expectations. The head of the labor inspectors stated that her office noted among workers a sense of greater security in forming new unions and initiating collective bargaining negotiations, while at the same time, less resistance to these activities on the part of employers.

Workers engaged in the formation of a union may not be discharged during the period from 10 days before to 30 days after the vote to unionize. Likewise, the workers engaged in collective bargaining are immune for 10 days before the presentation of a contract proposal until 30 days after it is signed. They are also entitled to all pertinent financial information from the company for the last 2 years. The modifications also greatly increase fines for violating immunities enjoyed by union leaders or artificially dividing up a company for the purpose of avoiding provisions in the code or resisting unionization. To enforce the new provisions, the Labor Directorate under the Ministry of Labor had begun to hire some of the 443 new employees mandated under the new legislation, including 300 labor inspectors, almost doubling the number of field inspectors.

Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining is limited. The recent modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it is still dependent on employers agreeing to negotiate. Inter-company unions were permitted to bargain collectively only if the individual employers agree to negotiate under such terms.

Labor laws apply in the duty free zones; there were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution and the Labor Code prohibit forced or bonded labor, and it was not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law restricts child labor; however, it was a problem in the informal economy. The law allows children between the ages of 16 and 18 to work with the express permission of their parents or guardians. The law allows 15-year-olds to work under certain conditions; their parents must consent, they must have finished compulsory schooling, and they may only perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforced these regulations, and compliance was good in the formal economy; however, many children were employed in the informal economy. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 work. A government study in 1996 estimated that 15,000 children between the ages of 6 and 11 and 35,000 children between the ages of 12 and 14 were in the

work force. A 1998 Catholic Church study estimated that 50,000 children under the age of 15 worked. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. During the year, an ILO study put the number of working children age 12–14 in 2000 at 14,914, or 2 percent of the children of that age. Children sold chewing gum on the street, washed windshields, worked as street performers, begged, or helped their parents to harvest crops. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor.

e. Acceptable Conditions of Work.—The law sets minimum wages, and the minimum wage is adjusted annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$150 (111,500 pesos) net of deductions per month. This wage was designed to serve as the starting wage for an unskilled single worker entering the labor force and did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see Section 5). The Government estimated that the proportion of the workforce at or below minimum wage rose from 9.1 percent in 1998 to 14.4 percent in 1999. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19.

The law sets hours of work and occupational safety and health standards. The legal workweek is 48 hours and is scheduled to be reduced to 45 hours on January 1, 2005. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety were protected under the law and administered by both the Ministries of Health and of Labor. The Government increased resources for inspections by more than 60 percent since 1990 and plans almost to double the current number over the next 3 years, while targeting industries guilty of the worst abuses. As a result, enforcement was improving, and voluntary compliance was fairly good. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists.

f. Trafficking in Persons.—There were no laws that specifically prohibit all forms of trafficking in persons; however, the law makes it a crime for anyone to promote or facilitate the entry to or exit from the country of persons for the purpose of facilitating prostitution. Sanctions are increased in cases in which the victim is a minor; in which violence or intimidation is used; if deception or abuse of authority is involved; if the victim is related or under the tutelage of the perpetrator; if advantage is taken of a victim's circumstances or handicap; or if the action is of a recurring nature. Child prostitution was a problem; there were a few other reports that persons were trafficked to or from the country.

There are legal sanctions for adults who are found to have induced children under the age of 18 to engage in commercial sex or engage them for the purposes of pornography. UNICEF estimated in 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18. The age of consent is 12 years; the law is vague regarding child prostitution above this age unless force, fraud, or abuse of authority can be proven.

The Government employs various measures to help educate the general population on trafficking. For example, the Carabinero Public Relations Department carried out lectures on prevention intended for children, adolescents, and adults with the purpose of preventing the disappearance of minors and adolescents as well as avoiding deception. Other organizations such as Mother's Centers, and the National Service for Minors also offered support programs to prevent trafficking.

COLOMBIA

Colombia is a constitutional, multiparty democracy in which the Liberal and Conservative parties have long dominated politics. On March 10, voters elected a bicameral legislature with a mix of Liberal, Conservative, and independent members. On May 26, voters elected independent Alvaro Uribe President. Both elections were

generally free and fair, in spite of a concerted campaign by terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC) to disrupt them. A major internal armed conflict between the Government and leftist guerrillas, particularly the FARC and the terrorist organization National Liberation Army (ELN)—as well as right-wing paramilitaries, particularly the terrorist organization United Self-Defense Forces of Colombia (AUC), caused the deaths of between 5,000 and 6,000 civilians during the year, including combat casualties, political killings, and forced disappearances. Serious violations of human rights were commonplace. The civilian judiciary was largely independent of government influence; however, the suborning or intimidation of judges, witnesses, and prosecutors was common.

The civilian-led Ministry of Defense (MOD) is responsible for internal and external security and oversees both the National Police and the Armed Forces, including the army, air force, and navy, which includes the coast guard and the marines. In addition to the armed forces and the National Police, the public security forces include armed state law enforcement and investigative authorities such as the Administrative Department of Security (DAS), which has broad intelligence gathering, law enforcement, and immigration control functions, and the Prosecutor General's Corps of Technical Investigators (CTI). The National Police are responsible for maintaining internal order and security in urban areas, although persistent guerrilla assaults on isolated detachments have compelled the thinly-staffed Police to leave 157 municipalities without a Police presence. The Armed Forces are responsible for order and security in rural areas and support the National Police in urban areas when called upon. Over the years, the public security forces have taken important steps to improve their human rights record; however, some members of the armed forces and the police continued to commit serious human rights abuses.

Despite decades of drug and politically related violence, the market-based economy is diverse and relatively advanced. The country's population is estimated at 44 million. Crude oil, coal, coffee, and cut flowers are the principal legal exports, although illegal drug trafficking has created a large illicit economy. Economic growth for the year was estimated at 1.6 percent, while inflation measured over 7 percent. Income distribution was highly skewed, with 67 percent of the population living in poverty.

The Government's human rights record remained poor; there were continued efforts to improve the legal framework and institutional mechanisms, but implementation lagged, and serious problems remained in many areas. A small percentage of total human rights abuses reported were attributed to state security forces; however, some members of the Government security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with paramilitary groups that committed serious abuses. Impunity remained at the core of the country's human rights problems. The civilian judiciary was inefficient, severely overburdened by a large case backlog, and undermined by corruption and intimidation. Despite some prosecutions and convictions, the authorities rarely brought high-ranking officers of the security forces charged with human rights offenses to trial.

Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh; however, renovation and new construction ameliorated some problems. There were allegations of arbitrary arrests and detentions, particularly in "Rehabilitation and Consolidation Zones," and prolonged pretrial detention remained a fundamental problem. The authorities sometimes infringed on citizens' privacy rights, and the security forces sometimes interfered with public demonstrations and marches. A number of journalists were killed, and journalists continued to work in an atmosphere of threats and intimidation, in some instances from local officials, but primarily from paramilitary groups and guerrillas. Journalists practiced self-censorship to avoid reprisals. There were some restrictions on freedom of movement, generally because of security concerns and confined to narrowly defined geographic areas, particularly "Rehabilitation and Consolidation Zones." Violence and instability in rural areas displaced over 400,000 civilians from their homes. The total number of internally displaced persons (IDPs) may have exceeded 2.5 million. There were reports that security force members harassed members of human rights groups. Violence and extensive societal discrimination against women, child abuse, and child prostitution were serious problems. Extensive societal discrimination against indigenous people and minorities continued. Labor leaders and activists continued to be victims of high levels of violence. Child labor was a widespread problem. Trafficking in women and girls for the purpose of sexual exploitation was a problem. Colombia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

Paramilitaries continued to commit numerous unlawful and political killings, particularly of labor leaders, often kidnaping and torturing suspected guerrilla sympathizers prior to executing them. Paramilitaries also conducted kidnapings for ransom. Paramilitaries committed “social cleansing” killings of homosexuals and other “undesirable” elements. However, paramilitaries appeared to commit far fewer large-scale massacres than in 2001. Paramilitaries often interfered with personal privacy in areas where they exercised de facto control, and regularly engaged in military operations in which they endangered civilian lives by fighting in urban areas and using civilian dwellings as combat shelter. Paramilitaries displaced thousands through both terror-induced forced displacements of suspect populations and military operations that drove peasants from their homes. Paramilitaries regularly threatened and attacked human rights workers and journalists who criticized their illegal activities. Paramilitaries also recruited child soldiers.

Guerrillas, particularly the FARC, were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. The rate of guerrilla abuses increased during the year, particularly as the FARC attempted to undermine the national elections and complicate the peaceful transfer of power between administrations. They engaged in a concerted campaign to destabilize municipal governments by killing 9 mayors and threatening to execute others, forcing nearly 400 mayors to submit their resignations. In addition to politicians, guerrillas killed journalists, labor union members, and numerous religious leaders. The FARC also continued to kidnap, torture, and kill off-duty members of the public security forces. Guerrillas, particularly the FARC and the ELN, kidnaped thousands of civilians to help finance subversion and put political pressure on the Government. Victims were held in deplorable conditions and often tortured both physically and psychologically. Guerrillas, particularly the FARC, caused mass displacements both intentionally and as byproducts of military offensives, and caused thousands of civilian deaths and injuries through indiscriminate attacks on small towns and random terrorist bombings throughout the country. Guerrillas, particularly the FARC, engaged in widespread recruitment of minors and used female conscripts as sex slaves.

In April the Executive Director of the Americas Division of Human Rights Watch (HRW) testified that both the FARC and the AUC committed similar abuses and crimes, although their motives and goals were different.

The Government operated a protection program for threatened human rights workers, union leaders, journalists, mayors, and several other groups. The program provided a range of protection options, ranging from vehicles and armoring of offices to relocation and economic assistance.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—Political, unlawful, and some extrajudicial killings remained an extremely serious problem. The Permanent Committee for the Defense of Human Rights (CPDDH), a prominent local human rights NGO (see Section 4), estimated that of the 28,230 homicides reported by the National Police, 4,416 were politically motivated. The DAS estimated that there were approximately 4,025 politically motivated homicides, the vast majority committed by nonstate actors. However, some members of the security forces continued to commit unlawful killings. The CPDDH reported that the security forces committed 59 political killings during the year, or 1.34 percent of the total. The Jesuit founded Center for Investigation and Popular Research (CINEP) reported that security forces were responsible for 92 intentional homicides of protected persons in the first 6 months of 2001. Most of the incidents cited by the CPDDH and CINEP were under investigation by military and/or civilian authorities at year’s end. Civilian courts tried an increasing number of cases of military personnel accused of human rights violations (see Section 1.e.). Members of the security forces sometimes collaborated illegally with paramilitary forces, and the authorities continued to investigate past cases of alleged collaboration with or failure to prevent massacres by paramilitaries. Investigations of past killings and massacres proceeded slowly. There were no published reports that police or members of the armed forces committed social cleansing killings.

On September 25, near the village of Brisas de Yanacue, in the municipality of Cantagallo, Bolivar department, army troops broke into a private residence before sunrise and killed Florentino Castellanos and his 9-year-old son. Castellanos’s wife, Mongui Jerez, was seriously wounded, losing an arm and a leg. Army troops mistakenly suspected that FARC guerrillas were sheltered in the family’s dwelling. At year’s end, the Procuraduria General (the Procuraduria) and the military were in-

vestigating the incident to establish basic facts and determine if the military should transfer its investigation to the Prosecutor General's Office (Fiscalia).

On December 8, the Fiscalia indicted 8 members of the army's Ninth Brigade, including a colonel and a captain, for the August 24 killing of FARC deserter Robinson Castro. The suspects allegedly killed Castro to steal \$250,000 (728.1 million pesos) in cash he had intended to turn over to government authorities.

Authorities continued to investigate the April 2001 killing of policeman Carlos Ceballos, who had testified in the investigation of illegal wiretapping by the Medellin GAULA anti-kidnaping force (*see* Section 1.f.).

The CPDDH reported that 2,452 persons were killed in massacres during the year. The CPDDH defines a "massacre" as the killing of 3 or more persons outside of combat in the same general location within a 24 period. The MOD reported a much smaller figure, with 361 persons killed in massacres during the year. The National Police registered 680 victims of massacres. Both the MOD and the National Police define a "massacre" as the killing outside of combat of 4 or more persons in a single incident. The CPDDH reported that state security forces killed 86 persons in massacres during the year, although it released no information on specific incidents. There continued to be reports of acts of negligence or deliberate omission by state security forces that facilitated massacres.

The Inspector General's Office (Procuraduria) received 217 complaints against members of the state security forces related to massacres and unlawful killings. The Procuraduria sanctioned three members of the army and eight members of the police on murder charges, and exonerated five members of the army, 2 members of the police, and one member of the air force. The office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation.

The Human Rights Unit of the Fiscalia was investigating 173 members of the state security forces for human rights crimes at year's end. The unit arrested 57 members of the state security forces during the year and filed charges against 25 for a variety of crimes including murder, torture, kidnaping, and collaboration with paramilitary groups. However, for various reasons, including lack of resources for investigations, lack of protection for witnesses and investigators, lack of coordination between government organs, and, in some cases, obstruction of justice by individuals, impunity continued to be widespread.

In 2001 a military trial court exonerated the soldiers involved in the August 2000 killing of six children by an army unit in the town of Pueblo Rico, Antioquia department; however, the Superior Military Tribunal returned the case for reconsideration. No decision had been reached at year's end (*see* Section 1.g.).

There was no significant progress in investigations by the Fiscalia and the Procuraduria of a March 2001 paramilitary massacre in San Carlos, Antioquia department, which resulted in the deaths of 13 persons. CINEP and the Colombian Commission of Jurists (CCJ) charged that police and military troops withdrew from the area of the attack 3 days prior to the massacre, and permitted a truck carrying 15 paramilitary hostages to pass unchallenged through a military roadblock.

On November 28, prosecutors permanently closed their investigation of army Colonel Miguel Angel Sierra, army Captain Carlos Alirio Buitrago, and four enlisted men for their alleged participation in the January 2000 killings of Uberney Giraldo and Jose Evelio Gallo near the village of San Antonio, Montebello municipality, Antioquia department. Both Giraldo and Gallo were long-demobilized ELN guerrillas associated with the Socialist Renewal Current (CRS) political movement. The Fiscalia continued to investigate the suspected participation in the crimes of army noncommissioned officers Humberto de Jesus Blandon and Sandro Fernando Barrera. The Procuraduria continued its own investigation of the case at year's end.

On June 6, the Procuraduria ordered the dismissal of army Lieutenant Emilio Suarez and 28 enlisted personnel for participating in the 1997 kidnaping and killing of two suspected guerrillas near Santa Ana, Antioquia department, and for subsequently staging a mock combat intended to cover up the crimes.

On November 5, retired army Lieutenant Colonel Jorge Plazas, former director of intelligence for the army's 13th Brigade, was sentenced to 40 years in prison for his role in the 1998 kidnaping and killing of Jewish businessman Benjamin Khoudari. The Bogota Supreme Court had still not ruled on appeals by two other persons of their convictions for aggravated kidnaping and murder in the case.

Prosecutors continued to investigate the possible involvement of public security forces in the May 1998 Barrancabermeja massacre, as well as the July 2000 killing of Elizabeth Canas, a key eyewitness. The Procuraduria also was conducting an inquiry into Canas's death. No progress seemed likely in either investigation.

There was no ruling in the trial of retired army Colonel Bernardo Ruiz, former commander of a military intelligence brigade, for allegedly ordering the 1995 killing

of Conservative Party leader Alvaro Gomez. Two civilians were convicted of the killing and sentenced to lengthy prison terms, while four other persons were acquitted.

The Supreme Court had not yet ruled on an appeal by five army officers and four suspected paramilitaries of their 1998 convictions for the 1988 Nuevo Segovia paramilitary massacre in which 43 persons were killed.

On May 23, the Council of State overturned on a technicality the Inspector General's 1994 order dismissing Brigadier General Alvaro Velandia from the armed forces for involvement in the 1987 kidnaping, torture, and killing of Nydia Erika Bautista, an M-19 guerrilla. The Procuraduria was appealing the decision at year's end. The Association of Families of Detained and Disappeared Persons (ASFADDES) and the Bogota office of the U.N. High Commission for Human Rights (UNHCHR) condemned the decision. ASFADDES and Bautista's relatives had already presented the case to the Inter-American Commission on Human Rights (IACHR). No progress seemed likely in an investigation of the case by the Fiscalia.

Credible allegations of cooperation with paramilitary groups, including instances of both passive support and direct collaboration by members of the public security forces, particularly the army, continued. Evidence suggested that there were tacit arrangements between local military commanders and paramilitary groups in some regions, since paramilitary forces operated freely in some areas despite a significant military presence. Some members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off duty.

The military high command stated repeatedly that it would not tolerate collaboration between military personnel and paramilitaries, and that the armed forces would combat paramilitary groups. Although state security forces doubled operations against paramilitaries during the year and quadrupled the number of paramilitaries captured since 2000 (*see* Section 1.g.), security force actions in the field were not always consistent with the leadership's positions. In addition to active collaboration, the military often was accused of failing to respond in a timely manner to warnings of impending paramilitary massacres or selective killings. The military generally cited lack of credible information, available manpower, and adequate mobility to explain these failures. Impunity for military personnel who collaborated with members of paramilitary groups remained common.

An investigation continued into the January 2001 paramilitary massacre of 27 civilians at the village of Chengue, near the town of Chalan in Sucre department. On November 12, a specialized criminal court in Sincelejo found army Sergeant Ruben Dario Rojas "not guilty" of facilitating the massacre. The Fiscalia appealed the decision. The same specialized court had yet to rule on the culpability of army Sergeant Euclides Rafael Bossa, although the evidence against the two suspects was similar. The Fiscalia formally linked paramilitary leader Nidia Esther Veilla to the crime. The Procuraduria filed formal disciplinary charges against nine members of the public security forces, including former Navy Admiral Rodrigo Quinones, for possible culpable omission in failing to prevent the massacre. Quinones resigned from the armed forces effective December 31.

In December the authorities released two gunmen arrested for the August 2001 killing of Yolanda Paternina, local lead prosecutor in the Chengue case, for lack of evidence. Two CTI investigators working undercover on the case already had disappeared in April 2001 near the town of Berrugas and were presumed dead.

On May 3, the Human Rights Unit of the Fiscalia formally charged 72 paramilitaries for killing 20 persons in the April 2001 massacre in the Alto Naya region, bordering the departments of Cauca and Valle del Cauca. Fifteen paramilitaries pled guilty to conspiracy to commit the crimes. Three others were convicted of killing and sentenced to 26 years in prison. The Procuraduria was conducting a disciplinary investigation into allegations that the army may have been negligent in preventing the massacre. According to prosecutors, no active duty service members were implicated in the commission of this crime.

The Procuraduria was investigating army Brigadier General Eduardo Herrera and Police Colonel Guillermo Aranda for possible misconduct related to the July 2001 kidnaping by paramilitaries of 43 men near Peque, Antioquia department. Seven of these men, who the AUC forced to herd cattle, were later found dead. At year's end, it was still unclear whether their paramilitary kidnapers killed them or the FARC did on the assumption that they were paramilitary collaborators.

The Procuraduria found no evidence of misconduct by any member of the public security forces related to the October 2001 paramilitary massacre of 24 persons near the city of Buga, Valle del Cauca department. The Fiscalia continued its criminal investigation; however, the investigation's closure seemed likely.

Civilian authorities continued to investigate the February 2000 paramilitary massacre of 42 persons in the El Salado neighborhood of the town of Las Ovejas, Bolivar department. An earlier military investigation found complaints of complicity to be unsubstantiated. Authorities detained 16 suspected paramilitaries, who were standing trial at year's end. The Procuraduria continued its disciplinary investigation of nine members of the public security forces, including navy admiral Humberto Cubos and former admiral Rodrigo Quinones, for potential misconduct related to the incident.

The Fiscalia also was investigating allegations of army complicity in a series of paramilitary crimes in and around the "peace community" of San Jose de Apartado, in the Uraba region of Antioquia department in 2000 and 2001. In two separate incidents in 2000, paramilitaries massacred five residents of San Jose and six residents of the nearby community of La Union. In March 2001 paramilitaries again entered San Jose and threatened members of the community. In July 2001, paramilitaries entered La Union, killed one resident, and drove out hundreds of others. On March 30, presumed paramilitaries killed a member of the San Jose peace community on the road between San Jose and the regional capital of Apartado. On October 20, paramilitaries entered La Union, "disappeared" one resident, and drove out hundreds of others, who were displaced to San Jose. To prevent further terrorist attacks on the community, the military established a permanent presence in the mountains surrounding La Union. La Union's residents had not returned by year's end. Although peace community leaders accused the army's 17th Brigade of involvement or acquiescence in many of these incidents, prosecutors uncovered no evidence of military complicity.

An investigation continued of army Colonel Victor Matamorros and army Captain Juan Carlos Fernandez regarding allegations that the two actively collaborated with paramilitaries between 1997 and 1999 in the department of Norte de Santander. Matamorros and Fernandez were the commander and intelligence chief, respectively, of an army battalion based in the departmental capital of Cucuta. Over a period of 5 months in 1999, 15 major paramilitary massacres occurred near the Norte de Santander towns of La Gabarra and Tibu. On April 8, a court in Cucuta convicted Giovanni Velasquez, a paramilitary, of aggravated murder for his role in the massacre.

In March 2001, the Fiscalia charged former Tibu military base commander Major Mauricio Llorente, former Tibu police commander Major Harbey Fernando Ortega, and 13 policemen with murder and complicity with paramilitaries in one of the 1999 Tibu massacres. An investigation continued into a related massacre of six persons near the town of Los Cuervos. The Procuraduria continued its disciplinary investigation of a police official for possible involvement in the Los Cuervos massacre; however, it closed its investigation of the Tibu massacre after finding no evidence of negligence or complicity by any member of the public security forces.

The Fiscalia closed its investigation into allegations that Colonel Rafael Alfonso Hani collaborated with paramilitaries while commander of the army's Palace Battalion, based in Buga, Valle del Cauca department, from 1999 to 2000. Despite the fact that there was a significant increase in paramilitary activity in the region during Hani's tenure, prosecutors found insufficient evidence to charge him with a crime. The Procuraduria continued its own investigation of Hani.

The Fiscalia continued to investigate the 1998 paramilitary massacre of 19 persons in Puerto Alvira, near the town of Mapihipan, Meta department. In March 2001, the Superior Military Tribunal confirmed a lower military court's decision to close the military's investigation of the case. The Procuraduria formally exonerated Major General Agustin Ardila, Major General Jaime Humberto Cortes, Brigadier General Freddy Padilla, Brigadier General Jaime Uscategui, and Lieutenant Colonel Gustavo Sanchez of any wrongdoing related to the massacre at Puerto Alvira. The Fiscalia continued its investigation of 21 members of the public security forces for alleged collusion with paramilitaries responsible for approximately 160 social cleansing killings in northeastern Antioquia between 1995 and 1998. The Procuraduria was investigating 26 officials on disciplinary charges related to the same events. The Fiscalia continued its investigation of General Jaime Humberto Uscategui for alleged collusion with paramilitaries related to the 1997 Mapihipan massacre. In November 2001, the Constitutional Court overturned on jurisdictional grounds Uscategui's April 2001 military court conviction for dereliction of duty in failing to prevent the massacre (*see* Section 1.e.). The Fiscalia also was prosecuting 11 other defendants, including 3 members of the armed forces, for offenses related to events at Mapihipan.

There was no reported progress in an investigation by the Fiscalia into allegations that retired Brigadier General Fernando Millan armed and equipped a paramilitary group in Santander department that was responsible for the killings of at least 11

persons in 1997. On March 8, the Procuraduria, which was conducting a disciplinary investigation of the allegations, exonerated Millan but found army Colonel Hernando Sanchez and police Lieutenant Oscar Esteban Hernandez guilty, ordering their immediate dismissal. The ruling was confirmed on appeal on July 9.

The Fiscalia continued its investigation into allegations that former General Rito Alejo del Rio collaborated with paramilitaries in the Uraba region of Antioquia department while he was commander of the army's 17th Brigade from 1995-97. Del Rio was arrested on these charges in July 2001, but subsequently was released based on a controversial ruling that there were jurisdictional flaws in the arrest warrant. On December 5, the Procuraduria closed its disciplinary investigation into similar allegations after finding insufficient evidence of the alleged crimes.

The trial continued of retired army Colonel Jose Ancizar Hincapie for alleged collaboration with paramilitaries who killed 11 persons between 1993 and 1994.

Former navy intelligence informant Jimmy Alberto Arenas was convicted of murdering 63 persons in Barrancabermeja between 1991 and 1993 and was sentenced to a lengthy prison term.

The majority of the approximately 80 cases from the country before the IACHR involved violations of the right to life. The IACHR continued its attempt to broker an amicable settlement of the former Patriotic Union (UP) Party's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" of UP and Communist Party members. Negotiations to amicably resolve the dispute, which began in 1999, continued. Despite ongoing implementation of a Ministry of Interior protection program for members of the UP and the Communist Party, little progress was achieved. The Government cited the large numbers of complainants as a complicating factor in resolving the dispute. Members of the UP continued to be targets of violence. On November 26, 10 armed men abducted Omar de Jesus Correa near a mass transit station in Medellin. His welfare and whereabouts remained unknown at year's end. In 2001 the IACHR presented a case to the Inter-American Court of Human Rights involving alleged military-paramilitary collaboration in the 1996 killings of 19 merchants near the town of Simacota, Santander department.

On July 29, the Government concluded an amicable settlement of claims related to the 1992 police killings of eight children and one adult in the Villatina neighborhood of Medellin. As part of the settlement, the Government agreed to construct and equip the community with a modern health center, fund the establishment of an employment-generating local small business, and indemnify the victims' families. Shortly after his inauguration, President Uribe instructed foreign ministry officials to reach friendly settlements in all pending cases in which state responsibility seemed clear. On October 17, the Government began serious negotiations on five cases.

Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. The MOD reported that paramilitary forces were responsible for the deaths of 397 civilians as of November 30. The Human Rights Ombudsman's Office reported that it had received reports of 329 unlawful killings by paramilitaries as of October 31. According to the Colombian Commission of Jurists (CCJ), a well-known local NGO (*see* Section 4), paramilitaries were responsible for the deaths of at least 930 civilians in the first 6 months of the year. Paramilitaries targeted journalists (*see* Section 2.a.), human rights activists (*see* Section 4), labor leaders (*see* Section 6.a.), community activists, indigenous leaders (*see* Section 5), local politicians, and others they suspected of sympathizing with guerrillas.

The Fiscalia continued investigations into numerous killings committed by paramilitaries in the Magdalena River port city of Barrancabermeja, Santander department. During the year, army personnel concentrated on combating paramilitary influence in the region. Of the 54 confirmed members of illegal armed groups captured by the army battalion in Barrancabermeja, 48 were paramilitaries. The battalion also captured 66 persons involved in gasoline theft, a multi-million dollar criminal enterprise dominated by paramilitaries.

Four paramilitaries were on trial for the February 2001 killing of former Cucuta regional ombudsman Ivan Villamizar (*see* Section 4).

The Fiscalia was investigating the September 2001 killing by presumed paramilitaries of Congressman and House of Representatives Acting Peace Committee Chairman Jairo Hernando Rojas.

Paramilitaries also killed members of the armed forces and national police who attempted to hamper their illegal activities. For example, on June 14, paramilitary gunmen interrupted an English class at a night school in the town of Pamplona, Norte de Santander department, and killed local police chief Major Sergio Gutierrez. Gutierrez had received death threats warning him to cease efforts to dismantle a

local paramilitary organization. On November 19, 12 armed men killed 2 police investigators working on an operation to combat paramilitary extortionists in the town of La Ceja, Antioquia department. On December 3, 15 paramilitaries from the Central Bolivar Block stopped a bus 12 miles outside the town of Concepcion, Santander department, removed 3 unarmed police officers dressed in civilian clothes, and killed them. The three officers were traveling to the town of Malaga to testify in a criminal case against paramilitaries.

In November 2001, AUC leader Carlos Castano issued a public statement promising the cessation of large-scale paramilitary massacres. Based on the observations of diplomatic observers and the national press, many AUC-affiliated paramilitary groups appeared to change their operations accordingly, significantly reducing the number of massacres perpetrated by paramilitaries. For example, according to the MOD, paramilitaries had killed 54 persons in 11 massacres as of November 30, compared with 281 victims in 42 massacres in 2001. The National Police released a similar figure, reporting that 59 persons were killed by paramilitaries in massacres during the year. However, the CPDDH released a much larger figure, reporting that paramilitaries killed 1,549 persons in massacres.

For example, on August 22, members of the AUC's Calima Front, which is deeply involved in drug trafficking, kidnaped and killed eight men near the village of Barragan, in Valle del Cauca department. Two days later, army troops killed two paramilitaries believed to have been involved in the killings.

Prosecutors continued to investigate massacres committed by paramilitaries in 2001 in the municipalities of Penol, Antioquia department, Frias, Magdalena department, Sabaletas, Valle del Cauca department, and a remote region of Boyaca department. There was no significant progress in any of these investigations.

Prosecutors continued to investigate an April 2000 paramilitary massacre of 21 men at Tibu, Norte de Santander department.

The Fiscalía continued to investigate a series of attacks in November 2000 in which paramilitaries killed 27 fishermen in the La Cienaga de Santa Marta area, Magdalena department.

The Fiscalía continued to investigate two different massacres near Trujillo, Valle del Cauca department, in 1989–90 and 1994. The authorities held one accused paramilitary in custody and had outstanding arrest warrants for three others. One paramilitary suspect was killed while in custody.

The Fiscalía reopened an investigation into the 1990 killing of presidential candidate and former M-19 guerrilla Carlos Pizarro after AUC leader Carlos Castano confessed to the killing in memoirs published in 2001. In June prosecutors requested that Castano be tried in absentia and sentenced to 60 years in prison.

Paramilitary "social cleansing" killings of homosexuals, prostitutes, drug users, vagrants, and persons with mental disabilities were reported in Barrancabermeja, Cucuta, and other cities. The CCJ reported that paramilitaries committed at least 212 "social cleansing" killings in the first 6 months of the year. For example, on June 14, paramilitaries executed two men on the outskirts of the town of Giron, Santander department; a note attached to one of the bodies attempted to justify the killings on the grounds that the men were common criminals. On September 14, paramilitaries in the town of Soledad, Atlantico department, killed 19-year-old Mario Paut as a presumed vagrant because he had broken a 9 p.m. curfew. Paut had left his home at 10 p.m. to buy diapers for his 1-month-old infant.

During the year, guerrillas, particularly the FARC, appeared to have committed a higher percentage of the nation's unlawful killings than they did the previous year, often targeting noncombatants. The MOD attributed 70 percent of civilian deaths, or 916 killings, to guerrillas between January and November. The MOD had attributed 51 percent of civilian deaths in 2001 to guerrillas. The Human Rights Ombudsman's Office reported that as of October 31, it had received complaints of 324 intentional killings by guerrillas, 193 by the FARC, 20 by the ELN, and 111 by unidentified guerrillas. However, the CPDDH reported that guerrillas were responsible for only 452 civilian deaths during the year, or 10 percent of the total. The CPDDH attributed 382 killings to the FARC and 53 to the ELN. The CPDDH attributed the deaths of 3,882 civilians to unidentified illegal armed groups.

Guerrilla targets included local elected officials and candidates for public office (see Section 3), civic leaders, business owners, peasants opposed to guerrilla activities, religious leaders (see Section 2.c.), indigenous people (see Section 5), labor leaders (see Section 6.a.), and teachers (see Section 2.a.). Some communities controlled by guerrillas also experienced social cleansing killings. Guerrilla offensives often caused significant civilian casualties (see Section 1.g.) and prompted significant displacements (see Section 2.d.).

Many unlawful killings committed by guerrillas were politically-motivated. The security chief for ex-president Andres Pastrana claimed to have thwarted 92 at-

tempts on Pastrana's life, the vast majority by guerrillas, during Pastrana's 4-year-term that ended on August 7. The FARC also attempted to assassinate candidate and current President Alvaro Uribe at least 12 times (*see* Section 3).

Smaller guerrilla groups also committed politically motivated unlawful killings. For example, on April 27, seven members of the Popular Liberation Army (EPL) killed a 16-year-old girl in the town of San Calixto, Norte de Santander department, for consorting with local military personnel.

The FARC committed more large-scale massacres than it did in 2001. The Ministry of Defense attributed 85 percent of civilian deaths in massacres during the year, or 307 total killings, to guerrillas. In 2001 the MOD attributed 36 percent of such deaths to guerrillas. The CPDDH reported that guerrillas killed 280 persons in massacres during the year, only 11 percent of its much larger estimate of massacre victims. According to the CPDDH, the FARC killed 241 persons in massacres and the ELN killed 31. The CPDDH blamed the deaths of an additional 691 persons on unidentified illegal armed groups.

On September 15, the FARC abducted 22 coca-leaf pickers near the town of Vista Hermosa, Meta department. After 4 days of torture, the guerrillas killed 11 coca-leaf pickers and buried them in a mass grave, apparently because the FARC suspected they were paramilitary collaborators. On August 10, near the town of La Gabarra, Norte de Santander department, the FARC shot and killed seven peasants who refused to be forcibly recruited. On August 31, near the town of Corralito in the Montes de Maria region of Bolivar department, the FARC killed eight farm workers whom it accused of being paramilitary collaborators.

Prosecutors continued to investigate the February 2001 killings by the FARC of seven ecotourists in Purace national park, bordering the departments of Huila and Cauca. Eight senior FARC leaders were identified as suspects in the case.

An investigation continued into the FARC's May 2001 killing of seven peasants near the village of Alto Sinu, Tierra Alta municipality, Cordoba department. Prosecutors ordered the arrest of Jhoverman Sanchez, leader of the FARC's 58th Front.

There was no progress in the investigation of the ELN's killing of nine peasants in the village of La Cristalina, located near the town of Puerto Wilches, Santander department, in retaliation for their vocal opposition to a government proposal to create an ELN safe haven in the region in anticipation of potential peace negotiations.

The Fiscalia continued to investigate deaths, disappearances, and kidnappings of off-duty military and police personnel, often killed as part of the FARC's publicly announced "Pistol Plan." On May 12, the FARC kidnaped, tortured, and executed nine enlisted soldiers on a Mothers Day furlough in Caqueta department (*see* Section 1.b.). On September 14, in Cucuta, Norte de Santander department, a reported member of the FARC shot and killed an 18-year-old soldier at his mother's home.

Little progress was made or seemed likely on investigations into killings committed by the FARC in its former safe haven ("despeje"). For example, no arrests were anticipated for the FARC's killing of seven residents of the former despeje town of La Macarena, Meta department, in the week following the abolishment of the FARC safe haven. Five of the victims were killed reportedly for failing to fully cooperate with the FARC, and two others were killed for attempting to steal FARC commander Mono Jojoy's custom bed and prize pig following his departure.

The Fiscalia continued to investigate the killings of 20 persons, including 8 police officers and the mayor of Vigia del Fuerte, Antioquia department, during a March 2000 FARC attack on Vigia del Fuerte and Bellavista, Choco department, located on opposite sides of the Atrato River. On April 8, the authorities charged three members of the FARC with killing and terrorism. They were in custody and awaiting trial at year's end.

The Fiscalia continued to investigate the FARC's December 2000 killing of Congressional peace commission chairman Diego Turbay, his mother, and five other persons in Caqueta department. No progress was expected in arresting the senior FARC leaders accused of ordering the crime. However, on June 5, a court sentenced—in absentia—Manuel Marulanda, alias "Tirofijo"; Jorge Briceno, alias "Mono Jojoy"; and 3 other members of the FARC Secretariat to 396 years in prison for the 1997 kidnaping and killing of Turbay's older brother, then-Senator Rodrigo Turbay.

On November 5, the Fiscalia ordered the arrest of eight members of the FARC's 57th Front for the January 2001 killing of Henry Perea, mayor of the town of Jurardo, Choco department. Perea had been pulled from his office and shot in broad daylight. No arrests appeared imminent.

On July 30, prosecutors indicted nine senior FARC leaders for the September 2001 kidnaping and killing of former Minister of Culture Consuelo Araujo near Valledupar, Cesar department. The FARC apparently killed Araujo when it became clear she could not maintain the pace required for the FARC to outrun military ef-

forts to rescue her. On November 18, the Fiscalía ordered the arrest of two other FARC leaders for their involvement in the crime.

Authorities failed to capture FARC Eastern Bloc commander German Briceno, known as "Grannobles"; who was indicted for the 1999 killings of U.S. citizen indigenous rights activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. On November 28, police arrested three FARC guerrillas suspected of involvement in the kidnaping. Confessed FARC member Nelson Vargas, who was suspected of participating directly in the killings, was serving a prison sentence for the separate crime of rebellion.

The FARC executed guerrilla soldiers who attempted to desert. For example, on June 3, near the town of Yondo, eastern Antioquia department, the FARC killed two female soldiers who planned to desert.

Guerrillas killed citizens using bombs, artillery, and antipersonnel landmines, and continued their practice of using gas canisters to attack small towns, killing civilians indiscriminately (*see* Section 1.g.).

b. Disappearance.—The law specifically defines forced disappearance as a crime. More than 3,800 cases of forced disappearance have been formally reported since 1977. Very few have been resolved. The great majority of victims of forced disappearance have never been seen or heard from again.

The CPDDH reported that state security forces were responsible for 10 forced disappearances during the year. The CCJ reported four such cases in the first 6 months of the year. The Procuraduria investigated 105 members of the state security forces on disciplinary charges related to forced disappearances (*see* Section 1.a.). In 35 cases, the allegations were credible enough for the Procuraduria to open a formal investigation. One army captain was formally charged, two police agents were found guilty and sanctioned, and one police agent was exonerated.

The law prohibits kidnaping; however, it remained an extremely serious problem. According to the Free Country Foundation, an anti-kidnaping NGO (*see* Section 4), during the year there were a total of 2,986 kidnapings; 936 were attributed to the FARC, 776 to the ELN, 180 to paramilitaries, including the AUC, and the remaining to smaller groups such as the EPL (People's Liberation Army) and common criminals. Elite government anti-kidnaping units known as GAULAs and other elements of the security forces freed 693 hostages and forced the release of 190 others. However, despite government efforts, the Free Country Foundation reported that at least 62 persons died in captivity during the year, including 3 children. Thirty-eight of these persons were killed by their captors. On January 29, then-President Andres Pastrana signed a new anti-kidnaping law that provides for 40-year jail sentences. At the same time, Pastrana announced disbursements of approximately \$2 million (5 billion pesos) to strengthen the GAULAs.

Some members of the state security forces were involved in kidnaping for ransom. For example, on May 14, police arrested two members of the National Police and an official from the Fiscalía for participating in the kidnaping of shoe magnate Esteban Rangel. On September 20, the BBC reported that some kidnap victims alleged they were abducted by members of the police either at roadblocks or after having been flagged down by police cars. The report noted that victims were uncertain whether they had been kidnaped by corrupt police officers or guerrillas using stolen police uniforms.

Paramilitaries were responsible for the majority of forced disappearances. The CPDDH attributed 439 forced disappearances during the year to paramilitaries, or 60 percent of such violations. The CPDDH also reported that 277 persons were forcibly "disappeared" by unidentified armed groups. According to the Free Country Foundation, paramilitaries were responsible for 180 kidnapings, or 7 percent of all kidnapings during the year in which a perpetrator was identified. Paramilitaries generally abducted persons suspected of collaboration with guerrillas, whom they almost always killed (*see* Section 1.a.). In April and October, presumed paramilitaries abducted persons near the town of San Jose de Apartado, in the Uraba region of Antioquia department (*see* Section 1.a.).

An investigation continued into the June 2001 paramilitary abduction of Embera-Katio indigenous leader Kimi Domico in Tierralta, Cordoba department. Domico apparently was kidnaped in retaliation for cooperation with the FARC. In December 2001, AUC military commander Salvatore Mancuso implied that Domico had been killed.

Authorities continued to investigate the October 2001 paramilitary kidnaping of 13 fishermen near the Ciénaga de Santa Marta, Magdalena department. Three of the victims escaped, and at least six were confirmed dead. The four victims still missing were presumed dead.

Paramilitaries sometimes abducted government employees investigating paramilitary crimes (*see* Section 1.a.). No further progress seemed likely in the April

2001 disappearances of two CTI investigators near Berrugas, Sucre department, who were working undercover on the January 2001 Chengue paramilitary massacre (see Section 1.a.). An investigation continued into the 2000 abduction of seven members of the CTI near Minguillo, Cesar department. The whereabouts of the CTI employees were unknown, and they were presumed dead.

Paramilitaries generally did not hold hostages for long periods of time to gain political concessions. However, they did commit kidnappings for ransom. For example, in 2000 paramilitaries kidnaped Venezuelan businessman Richard Bolton, who was only released on July 15 after his family paid a large ransom.

Kidnaping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and ELN. The FARC continued to kidnap persons in accordance with its so-called "Law 002," announced in March 2000, which requires persons with more than \$1 million (2.95 billion pesos) in assets to volunteer payments to the FARC or risk detention. The Free Country Foundation reported that guerrillas committed 75 percent of the 2,986 kidnappings reported during the year in which a perpetrator was identified. The Foundation reported that the FARC kidnaped 936 persons and the ELN 776. In addition, the FARC often purchased victims kidnaped by common criminals and then negotiated ransom payments with the families. There were many reports that guerrillas tortured kidnap victims (see Sections 1.c. and 1.g.). Several released kidnap victims claimed that the FARC had been holding more than 200 persons in the former despeje before the zone's abolishment in February.

According to the Free Country Foundation, merchants, government employees, and cattle ranchers were among the guerrillas' preferred victims. However, the largest category of kidnaping victims was children, over 384 of whom were kidnaped during the year. In 2001, for example, the FARC kidnaped 11-year-old Laura Ulloa from her school bus in Cali, and did not release her until April 5. It was suspected that a ransom was paid for her return. In October 2001, the FARC kidnaped 18-month-old Mariana Ossa in a middle class neighborhood of Medellin. Although Ossa's parents paid a ransom for her release in July, she was not released until December 22. The FARC kidnaped several mayors' children to pressure the mayors into resigning (see Section 3).

According to the Free Country Foundation, 1,714 kidnappings during the year, or over 57 percent of the total, were economically motivated. During an April 2 newspaper interview, ELN Supreme Commander Nicolas Rodriguez, alias "Gabino," stated that the ELN expected to receive payment for the release of kidnap victims. Gabino added that kidnap victims "have a specific economic value" and that "the Government must understand that, if there are funds for a peace agreement, these funds must be applied to resolving the situation of these kidnap victims." The Government immediately rejected Gabino's demand.

On August 19, the ELN kidnaped 27 tourists from a resort near the town of Bahia Solano, Choco department. At year's end, all but three had been released, most in return for ransom payments or IOUs accompanied by death threats for noncompliance. Victims reported that the group, which included retired persons and children, was forced to hike 12 hours a day through jungle swamps on meager rations of bananas and rice. Many of the victims contracted malaria or other serious illnesses and one elderly victim died of a heart attack and was buried in an unmarked grave.

Guerrillas sometimes demanded ransom payments before returning the bodies of kidnap victims who died in captivity. For example, in April relatives of a merchant kidnaped near the town of Pensilvania, Caldas department, paid the FARC nearly \$2,000 (5.9 million pesos) to recover his body.

Guerrillas also kidnaped foreigners for ransom. According to the Free Country Foundation, 31 foreigners were kidnaped during the year. For example, on April 19, the FARC abducted two Canadian citizens and one French citizen whose helicopter made an emergency landing in a remote region of Narino department. They were released on July 30. Government authorities believe a ransom was paid. In October 2001, the FARC kidnaped Dutch student Roelant Jonker near the village of Santa Cecilia, Choco department. Jonker was released on June 12 in return for a ransom of approximately \$8,000 (23.6 million pesos). On May 22, a combined team of army, police, and DAS personnel rescued 64-year-old Maria Luisa Trevisan de Bchetti, an Italian citizen and owner of a Venezuelan steel plant, from a joint FARC/ELN team holding her hostage in the town of Maico, La Guajira department. Trevisan de Bchetti had been kidnaped on April 19 in Venezuela. The guerrillas were demanding \$10 million (29.5 billion pesos) for her release.

The FARC committed numerous politically motivated kidnappings in an attempt to destabilize the Government and pressure it into a prisoner exchange. According to the Free Country Foundation, there were 208 politically motivated kidnappings dur-

ing the year. On April 15, HRW published a letter to FARC leader Manuel Marulanda that called for an immediate end to targeting political leaders.

On February 20, FARC operatives hijacked an airliner on route from Neiva, capital of Huila department, to Bogota, forced it to land on the Bogota-Neiva highway, and kidnaped Senator Jorge Eduardo Gechem, Chairman of the Senate Peace Commission. The hijacking was apparently planned for the express purpose of kidnaping Senator Gechem. Gechem's cousin, Diego Turbay, former chairman of the House of Representatives Peace Commission, was killed by the FARC in 2000. Gechem's kidnaping led then-President Pastrana to declare a definitive end to stalled peace negotiations with the FARC and abolish the FARC's despeje in the south.

On February 23, 3 days after the despeje was abolished, the FARC kidnaped presidential candidate Ingrid Betancourt and her campaign manager, Clara Rojas, on the highway between Florencia and San Vicente del Caguan, Caqueta department. On July 23, the FARC released a videotape of a thin, tired Betancourt, apparently recorded on May 15. In early October, a Bogota television news station received a message from the FARC stating that Betancourt was in good condition.

On April 11, the FARC committed a daring daylight kidnaping of 16 members of the Valle del Cauca departmental assembly from the assembly's headquarters in downtown Cali. FARC operatives dressed in army uniforms announced that the building was being evacuated because of a bomb threat and hurried victims into a waiting bus painted in army colors. Although four victims were rescued by the military in the following week, 12 victims remained in captivity at year's end. On August 28 and December 27, the FARC released videos of the 12 remaining captives, who appeared to be in good health.

On April 21, the FARC kidnaped Guillermo Gaviria, governor of Antioquia, and Gilberto Echeverri, departmental peace commissioner and former national Minister of Defense, while the governor was leading a peace march through the eastern Antioquia town of El Vaho.

The FARC continued to hold captive former members of Congress Orlando Bernal, Luis Eladio Perez, and Consuelo Gonzalez, kidnaped in 2001, and Congressman Oscar Lizcano, kidnaped in 2000. All four former members' terms expired while they were in captivity. The FARC also held former Meta governor Alan Jara, who was kidnaped in July 2001 while riding in a U.N. vehicle with the U.N. Development Program (UNDP) director and other government officials.

The FARC continued to hold nine victims of a mass kidnaping carried out in July 2001 from a luxury apartment building in Neiva, Huila department. The captives included the wife and two children of a congressman.

Members of the public security forces were also among the preferred victims of politically-motivated kidnapings. According to the Free Country Foundation, 68 members of the public security forces were kidnaped during the year, all by guerrillas, particularly the FARC. The Ministry of Defense reported that the FARC and ELN continued to hold or had "disappeared" at least 102 members of the public security forces.

On April 5, the International Committee of the Red Cross (ICRC) recovered the bodies of two police officers, both killed by the FARC. One of the bodies was that of Corporal Jose Norberto Perez, the father of Andres Felipe Perez, a 13-year-old boy who died of cancer in December 2001 after having pleaded with the FARC to release his father so that the family could be reunited before the boy's death.

Guerrillas kidnaped journalists (*see* Section 2.a.).

The whereabouts of three American missionaries kidnaped from eastern Panama in 1993 remained unknown, and they were presumed dead.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and criminal law explicitly prohibit torture, and cruel, inhuman, or degrading treatment or punishment; however, there were reports that the police, military, and prison guards mistreated and tortured detainees. The Military Penal Code directs that trials of members of the military and police accused of torture be held in civilian, rather than military, courts (*see* Section 1.e.). The Procuraduria received 103 complaints of torture by state agents during the year. CINEP reported that state security forces tortured 16 persons during the first 6 months of the year; 14 of these cases were attributed to the army and 2 to the police.

The Fiscalía was investigating accusations publicized during the year by the Committee in Solidarity with Political Prisoners (CSPP) that members of the Cali GAULA collaborated with paramilitaries in abducting and torturing individuals suspected of involvement in kidnapings.

Colonel Jose Ancizar Molano, Captains Alvaro Hernando Moreno and Rafael Garcia, Lieutenant Carlos Eduardo Jaramillo, and four noncommissioned officers remained on trial at year's end for torturing 12 marines with asphyxiation and electric shock in 1995.

CINEP reported 42 cases of torture by paramilitaries during the first 6 months of the year. Victims of paramilitary killings often showed signs of torture.

Guerrilla groups also tortured and abused persons. CINEP reported only three cases of torture by guerrillas during the first 6 months of the year; however, the bodies of many persons kidnaped and subsequently killed by guerrillas showed signs of torture and disfigurement. Numerous former kidnap victims and hostages taken by the guerrillas during combat reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (*see* Section 1.b.). The MOD reported that guerrillas tortured or mutilated and killed soldiers and policemen after they surrendered (*see* Section 1.g.).

Prison conditions were harsh, particularly for prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. The National Prison and Penitentiary Institute (INPEC) reported that the nation's daily food allowance per prisoner was only \$1.25 (3,500 pesos). Private sources continued to provide the majority of most prisoners' food. In June 2001, based on a lawsuit filed by prisoners incarcerated in Valledupar, Cesar department, the Valledupar Supreme Court ordered INPEC to improve prison conditions in the department. Many of INPEC's 10,000 prison guards were poorly trained or corrupt. On March 6, prison guards at the Valledupar penitentiary beat an unruly prisoner in his cell so severely that he died 36 hours later. The Fiscalia placed the six guards under arrest on suspicion of murder. The Office reportedly was investigating allegations of prison guard brutality in other installations as well.

Only four prisons—Valledupar, Acacias, Popayan, and Combita—met international standards for acceptable conditions for prison facilities. Two more prisons designed to meet these standards were under construction in La Porada, Caldas department, and Palo Gordo, near Bucaramanga, Santander department. In other prisons, inmates paid to eat, drink, sleep on a mattress, wash clothes, or make telephone calls. Many inmates in such facilities also were forced to pay protection money to fellow inmates or corrupt prison guards.

According to INPEC, overcrowding remained a serious problem. In October the country's prisons and jails held approximately 52,900 inmates, 16 percent over their intended capacity of 45,500. The country's largest prisons had some of the highest occupancy levels. For example, Medellin's Bellavista prison, the country's largest, held over three times as many prisoners as it was designed to hold.

An estimated 17.8 percent of the country's prisons were between 40 and 80 years old, 3.5 percent between 80 and 201 years old, and 2.4 percent more than 201 years old. The Ministry of Justice made some progress in implementing a plan announced in 2000 to expand prison capacity by 18,000 beds by 2003. Since the announcement, the Government renovated 17 of the country's 151 penitentiaries, including some of its largest, expanding prison capacity by 6,400 beds.

The Government sometimes failed to prevent deadly violence among inmates. For example, on July 12, a routine cell search in Bucaramanga's La Modelo jail revealed plans for a mass escape led by ELN inmates and sparked a large riot that resulted in the death of one inmate and serious injuries to four others. INPEC reported 8 major prison riots, compared with 19 in 2001. However, unlike the previous year when 61 inmates died in such uprisings, only 3 lives were lost in these disturbances.

There were no large-scale prison escapes; however, a total of 223 prisoners did escape from the country's prisons during the year. These escapes were divided roughly evenly between classic escapes and abuses of administrative privileges such as 72-hour passes. Nevertheless, these numbers represented an improvement over 781 escapes registered in 2000. Enhanced external security, which prevented paramilitaries and guerrillas from breaking out imprisoned comrades, and the revocation during the year of the policy permitting the issuance of 72-hour passes to favored prisoners, accounted for the improvement. Several failed escapes were elaborately planned, such as an effort by paramilitaries, discovered in October, to tunnel out of Bogota's La Picota prison.

During the year, the authorities moved high-level narcotics traffickers to the new high security prison at Combita, where they endured the same spartan conditions as other prisoners. The renovation of the high security wing of Bogota's La Picota prison also was completed, ending many inmates' relatively comfortable prison lifestyles.

There were separate prison facilities for women, and in some parts of the country there were separate women's prisons. Conditions at women's prisons were similar to those at men's prisons, but were far less violent. According to the Criminal Procedure Code, no one under the age of 18 may be held in a prison. Juveniles were held in separate facilities operated by the Colombian Family Welfare Institute (ICBF).

There were no separate facilities for pretrial detainees, who made up an estimated 43 percent of all prison inmates. According to INPEC, 981 pretrial detainees

were held in overcrowded police jails, despite court orders that they be transferred to long-term detention facilities. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting precisely for all detainees impossible.

The ICRC continued to have routine access to most prisons and police and military detention centers. The ICRC continued to have ad hoc access to civilians held by paramilitaries and guerrillas. However, the FARC and ELN continued to deny the ICRC access to police and military hostages (*see* Sections 1.b. and 1.g.).

d. Arbitrary Arrest, Detention, or Exile.—The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be allegations that authorities arrested or detained citizens arbitrarily. Many such allegations originated in “Rehabilitation and Consolidation Zones” established by presidential decree, where security forces were granted expanded powers to establish public order.

President Uribe issued Decree 2002 on September 10 by authority of his August declaration of a “State of Internal Disturbance” (*see* Section 1.f.). In addition to authorizing the creation of “Rehabilitation and Consolidation Zones”, the decree granted the police and armed forces the power to make arrests, intercept communications, and search private residences without written warrants, and to do so without judicial authorization in exigent circumstances. However, on November 26, the Constitutional Court struck down provisions of the decree that granted police powers to the military, emphasizing that prosecutorial officials must determine when personal liberty interests can be infringed upon in the interests of public safety.

The Constitutional Court’s decision was consistent with its April 11 ruling striking down the National Defense and Security Act of 2001, which had threatened to infringe on the due process rights of persons detained or investigated by the military (*see* Section 1.e.). Among other things, the Act had not specified the maximum period detainees might be held by the military before being turned over to civilian authorities.

The law prohibits incommunicado detention. Even in Rehabilitation Zones, anyone detained by law enforcement authorities must be brought before a senior prosecutor within 36 hours of his or her detention. A senior prosecutor must then rule on the legality of the detention within an additional 36 hours. Despite these legal protections, there continued to be allegations of arbitrary detention.

Conditional pretrial release is available for minor offenses or after unduly long periods of investigative detention. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be conditionally released. In the cases of crimes deemed particularly serious, such as murder or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be conditionally released.

Paramilitaries in the city of Barrancabermeja, Santander department, exercised illegal “social controls,” such as curfews for children, ad hoc punishments for domestic violence and petty crimes, and the issuance of paramilitary-produced identification cards to bona fide local residents.

The FARC pressed the Government to adopt a permanent prisoner exchange law; however, both the Pastrana and Uribe administrations rejected the idea. Families of kidnap victims, particularly relatives of 12 Valle del Cauca Assembly members kidnaped in April and still held by the FARC (*see* Section 1.b.), pressed the Government to participate in a one-time humanitarian prisoner exchange. During the year, guerrillas continued to hold at least 47, and as many as 102, soldiers and police who either were captured in combat or kidnaped while off-duty. The ICRC was not permitted access to them (*see* Section 1.b.).

The Constitution prohibits forced exile, and the Government did not practice it. However, there were numerous instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, journalists, human rights workers, slum-dwellers, business executives, farmers, and others (*see* Sections 2.a. and 4). The threats came from various quarters: some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, and other criminal elements.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the civilian justice system was independent of the executive and legislative branches in both theory and practice; however, the suborning or intimidation of judges, witnesses, and prosecutors was common. Impunity remained the single greatest problem threatening the credibility of the Government’s commitment to human rights. The university-affiliated Corporation for Judicial Excellence, which was preparing a study on impunity, reported that the overall level of impunity cited

by a variety of governmental and nongovernmental sources was between 80 and 95 percent.

Judges have long been subject to threats and intimidation, particularly when handling cases involving members of the public security forces or of paramilitary, guerrilla, and narcotics trafficking organizations. Violent attacks and threats against prosecutors, defense attorneys, and judges continued. Prosecutors reported that potential witnesses in major cases often lacked faith in the Government's ability to protect them and thus were unwilling to testify, hindering chances for successful prosecutions. For example, in December two prosecution witnesses failed to appear at the trial of three members of the Irish Republican Army who were accused of training members of the FARC. One of the witnesses could not be found, and the other said that he feared for his life.

According to a statement issued by the Supreme Court, as of July 16, terrorist organizations such as the FARC and the AUC had threatened judicial officials working in at least 368 courts in 231 municipalities. As of August 30, 408 judges and 396 prosecutors from 248 municipalities felt obligated to work out of offices in departmental capitals for reasons of security.

In March 2001, Bogota judge Lester Gonzalez received threats that appeared related to important cases on her docket, including the 1995 assassination of Alvaro Gomez, the 1997 Mapiripan massacre, and the 1997 killings of three CINEP volunteers. Also in March 2001, Medellin judge Adalgisa Lopera fled the city with her family following a death threat. Judge Lopera heard paramilitarism, terrorism, and narcotics cases.

In April 2001, two undercover CTI employees investigating the January 2001 Chengue massacre disappeared in Sucre department. In December two gunmen arrested for the August 2001 killing of Yolanda Paternina, local lead prosecutor in the case, were released for lack of evidence (*see* Section 1.a.).

An investigation continued into the April 2000 killing of prosecutor Margarita Maria Pulgarin in Medellin. Paramilitaries were suspected of killing her. One suspect had been charged in absentia; however, no one had been detained by year's end.

The civilian justice system is a separate and independent branch of government that uses a Napoleonic legal system incorporating some accusatorial elements. The military justice system, which is part of the executive branch, also relies on a mixed system, although accusatorial aspects predominate.

On December 16, Congress approved constitutional changes designed to convert the current mixed judicial system into a purely accusatorial system. The reforms will go into effect in January 2005, prior to which major changes will have to be made to the penal, criminal procedure, and evidence codes. After that date, judges, rather than prosecutors, will issue arrest warrants and decide pretrial motions. Cases will be tried in open court and decided on the basis of oral trial proceedings, rather than an exhaustive written dossier. Prosecutor General Luis Camilo Osorio has predicted that the reforms will reduce the average investigatory phase of a case from 3 years to 6 months.

The judicial system was extremely overburdened. Based on information collected from 77 percent of the nation's courts, as of September the administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that the civilian judiciary suffered from a backlog of at least 1.14 million cases, approximately 140,000 of them criminal. These backlogs had created large numbers of pretrial detainees (*see* Section 1.c.) In October, the President of the Council of State complained that the Council was facing a 6 to 8 year backlog. The Fiscalia reported that approximately 220,000 arrest warrants were still outstanding.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil jurisdiction is the largest jurisdiction within the civilian justice system, and handles all criminal, civil, labor, agrarian, and domestic cases involving non-military personnel. The civil jurisdiction is divided into 31 judicial districts, each containing at least one judicial circuit encompassing one or more municipalities. A superior tribunal serves as each district's court of appeals. The civil jurisdiction's 436 magistrates are distributed according to the population of each district. The lower circuit and municipal courts, each staffed by a judge, a court clerk, and perhaps a few administrative personnel, are the basic cells of the civil jurisdiction. In the smallest towns, a single "all-purpose" judge rules on all cases.

Specialized circuit courts within the civil jurisdiction try cases involving crimes designated as grave threats to the administration of justice, such as narcotics trafficking, terrorism, paramilitarism, torture, and money laundering.

The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeals. In addition to hearing appeals from lower courts, the

Supreme Court has original jurisdiction in trials of the President, cabinet ministers, heads of independent government agencies, admirals and generals, and magistrates of the Supreme Court, Council of State, Constitutional Court, and CSJ.

The administrative jurisdiction of the civilian justice system is divided into 27 judicial districts with an equal number of tribunals. Each tribunal has from 1 to 23 magistrates, depending on the population of the district. Administrative actions such as decrees and resolutions may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeals for complaints arising from administrative acts.

The Constitutional Court, which is charged with "safeguarding the integrity and supremacy" of the Constitution, is the sole judicial body comprising the constitutional jurisdiction of the civilian justice system. It rules on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court may also issue advisory opinions on the constitutionality of bills not yet signed into law, and randomly reviews the decisions of lower courts on "tutelas," or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of a judicial procedure as a legal defense of last resort. Courts must rule on the validity of a tutela within 10 days. Approximately 15,500 tutelas were before the Constitutional Court for possible review.

The final functional jurisdiction of the civilian justice system is the special jurisdiction. The special jurisdiction consists of the justice of the peace program, designed to encourage alternative dispute resolution at the municipal level, which has been implemented in less than 1 percent of the country's municipalities, and the indigenous jurisdiction, which grants indigenous leaders the right to exercise judicial functions on indigenous reservations in accordance with traditional laws (*see* Section 5.).

The CSJ is responsible for the administration and discipline of the civilian justice system. The CSJ is divided into two chambers: administrative and disciplinary. The administrative chamber supervises the civilian justice system's budget and determines its organization. The disciplinary chamber disciplines judicial officials and resolves jurisdictional clashes, such as those between the civilian and military justice systems.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are four roughly coequal supreme judicial organs that often issue conflicting rulings and frequently disagree regarding jurisdictional responsibilities.

The Fiscalía is tasked with investigating criminal offenses and presenting evidence against the accused. The Supreme Court elects the Prosecutor General from a list of three candidates selected by the President. The Prosecutor General serves a 4-year term that overlaps two presidential administrations. The Office is independent of both the executive and judicial branches and is divided into national, regional, and local offices. The Office has its own corps of armed investigators known as the Corps of Technical Investigators (CTI). The Office has significant judicial functions; however, consistent with constitutional reforms passed in December, it will be converted by 2005 into a purely investigatory and prosecutorial agency.

The Prosecutor General created the Human Rights Unit in 1995. As of October, the Unit's 41 prosecutors had 1,369 open cases involving 1,618 suspects, including 173 members of the state security forces. The Human Rights Unit arrested 57 members of the state security forces during the year and filed charges against 25 for a variety of crimes including murder, torture, kidnaping, and collaboration with paramilitary groups. However, impunity continued to be very widespread.

In November HRW published "A Wrong Turn; the Record of the Colombian Attorney General's Office," a report that alleged that under the leadership of Prosecutor General Luis Camilo Osorio, the ability of the Fiscalía to investigate and prosecute human rights abuses had deteriorated. The report accused the Prosecutor General of failing to support prosecutors who worked on human rights cases by not providing adequate protection for justice officials whose lives were threatened and by the dismissal and forced resignation of veteran prosecutors and judicial investigators.

In its December response, the Human Rights Unit of the Fiscalía reported that for the first time in its history, Osorio had obtained a specific allotment in the national budget for the Unit. While it was true that 4 of the Unit's 41 prosecutors had been dismissed during the year, their replacements had equal or greater experience. Finally, the Unit was working hard to increase the protection available to prosecutors.

The Procuraduria investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General, whose term overlaps those of two presidents, is elected by the Senate to a 4-year term from a list of three candidates nominated by the President, Supreme Court, and Council

of State. During the year, the Procuraduria received 395 complaints of alleged serious violations of human rights by state agents, compared with 502 complaints in 2001. A total of 235 of these complaints were lodged against the army, 3 against the navy, 8 against the air force, and 149 against the National Police. Of these complaints, 380 were still under preliminary investigation, 14 had reached the stage of a formal disciplinary investigation, and 1 had resulted in the filing of formal charges. The Procuraduria imposes administrative sanctions that range from letters of reprimand to dismissal and permanent bans from public office. It has no authority to impose criminal sanctions, but can refer cases to the Prosecutor General. The Procuraduria referred all cases of human rights violations received during the year to the Prosecutor General for investigation and reported that the majority of these cases were investigated by the Fiscalia.

The Office of the Human Rights Ombudsman, or Public Defender, employs 923 public defenders nationwide to provide the indigent with legal representation in criminal cases. However, as of December, these public defenders were required to manage over 70,000 cases. In addition, the Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights violations (*see* Section 4). The Ombudsman, who reports to the Inspector General, is elected by the House of Representatives from a list of three candidates submitted by the President to serve a 4-year term that overlaps those of two presidents.

A criminal case begins with a preliminary investigation that can last up to 180 working days. If evidence is found linking a particular individual to a crime, the case moves into a formal investigative stage in which prosecutors have a maximum of 360 working days to file formal charges. Once formal charges are filed, the Government has 35 working days to bring a case to trial. Trials are open to the public. Judges question witnesses directly and determine the outcome of all trials. There are no juries.

The Constitution specifically provides for the right to due process. Nevertheless, as of November 30, the Human Rights Ombudsman's office had received 1,270 complaints of denial of due process. An accused is presumed innocent until proven guilty and has the right to timely consultation with counsel. Attorneys from the Ombudsman's Office are required to represent indigent defendants; however, representation for the indigent has historically been inadequate. During the year, an estimated 90 percent of indigent defendants received no assistance from a public defender. Defendants have the right to be present at proceedings against them, present witnesses and evidence on their own behalf, and confront and question prosecution witnesses. Defendants also have the right to review government evidence relevant to the case. Defendants have the right to appeal a conviction to a higher court. The Constitution extends these rights to all citizens.

The military justice system, as part of the Ministry of Defense, falls under the executive branch. To improve the accountability and independence of the military justice system, the military judicial code was amended in 2000 so that military prosecutors report directly to the director of the military justice system, rather than to their local unit commanders. The director of the military justice system reports directly to the civilian Minister of Defense. Nevertheless, impunity for members of the public security forces—particularly high-ranking officers—accused of human rights abuses or collaboration with paramilitaries remained a problem. Some military justice personnel investigating sensitive cases reported they were pressured to make particular rulings and threatened or harassed for not doing so.

The military justice system is composed of the Superior Military Tribunal, which serves as the court of appeals for all cases tried in the military justice system, and 40 military trial courts. The civilian Supreme Court serves as a second court of appeals for cases in which sentences of 6 years or more in prison are imposed. The military judiciary may investigate, prosecute, and try active duty military and police personnel for alleged crimes "related to acts of military service." Civil courts must try retired personnel, even for service-related acts committed before their retirement. The military penal code specifically defines forced disappearance, torture, and genocide as crimes not related to military service. Moreover, a presidential directive issued in 2000 raised "to the category of law" a 1997 Constitutional Court ruling that defined all serious violations of human rights as being unrelated to military service. The military penal code also provides protections to members of the public security services who may feel pressure from commanders to violate human rights. For example, the code denies unit commanders the power to judge subordinates and extends legal protection to service members who refuse to obey illegal orders to commit human rights abuses.

Criminal investigations by the military justice system are designed to be completed rapidly. By law an investigation may last a maximum of 180 working days,

after which a suspect must be brought to trial within 2 months. However, this rigorous timetable is suspended if a defendant appeals the court's jurisdiction or procedural rulings. This exception causes many cases in the military justice system to drag on for years. For example, jurisdictional appeals accounted for some of the delay in the military's investigation of the apparent air force bombing of the village of Santo Domingo, Arauca department in December 1998 (*see* Section 1.g.). The military justice system's formal investigation began in 2000, and was still in its investigatory phase when it was transferred to the civilian justice system in December.

Criminal procedure within the military justice system is similar to that within the civilian justice system, with the exception that the military justice system has already incorporated many accusatorial elements. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. However, there is no military equivalent to the civilian public defender system; defendants generally must retain counsel at their own expense. Representatives of the civilian justice system—generally from the Procuraduría—have a right to be present at military trials.

The military judiciary demonstrated a willingness during the year to turn cases of military personnel accused of human rights violations or other criminal activities over to the civilian justice system. The Superior Military Tribunal reported that between August 1997 and December it voluntarily transferred 1,377 cases, 627 military and 750 police, to the civilian justice system. An independent review of the 627 cases involving military personnel revealed that 168 cases involved allegations of gross violations of human rights or collaboration with paramilitaries.

In September 2000, the President signed 12 decrees to reform and strengthen the military. The decrees sharpened the definitions, classifications, and punishments for crimes, required military officials to cooperate with civilian investigators who investigate such crimes, and mandated, with limited exceptions, the dismissal of service members convicted and imprisoned by either the civilian or military justice systems.

Presidential Decree 1790 of 2000 allows senior military commanders, at their discretion, to separate from service any uniformed members of the security services regardless of time of service. From October 2000 through the end of 2001, the military dismissed approximately 600 members; no figures were available on how many were discharged during the year under the authority of Decree 1790. No information was available from the MOD regarding the specific reasons for any of the dismissals, nor were the names of those dismissed made public. The MOD confirmed the claims of many human rights NGOs that a large number of those dismissed subsequently entered the ranks of illegal paramilitary groups.

When military officers were tried, convicted, and sentenced for human rights violations, they generally were not incarcerated in civilian prisons but were confined instead to their bases or military police detention centers, as permitted by law. Some performed administrative functions while incarcerated. The MOD reported, and the Fiscalía confirmed, that military and police prisoners charged by civilian prosecutors routinely were suspended from their duties and placed on half-pay. Officers and noncommissioned officers were removed from any command duties. Forty-one members of the military and 25 police officers reportedly were suspended at year's end.

To address concerns about escapes from improvised military detention facilities, in June a new high security military prison was inaugurated near Melgar, Tolima department. The civilian INPEC provided oversight of the military's management of the prison. Although the facility was designed to house up to 200 inmates, it was still not large enough to house all military prisoners, leaving some in facilities of questionable security.

The case of former General Jaime Humberto Uscategui, accused of failing to prevent a 1997 massacre in Mapiripan, Meta department, remained under investigation by the Fiscalía (*see* Section 1.a.). Although the Constitution dictates that generals accused of crimes related to acts of service must be tried by the Supreme Court, Uscategui would be tried by an ordinary criminal court because the crimes of which he was accused were unrelated to acts of service.

According to statistics provided by the CSJ, in cases of jurisdictional conflict between the military and civilian justice systems, the total number of cases assigned to military courts dropped from 50 percent in 1992 to 15 percent in 2000. Over the same period, cases assigned to civilian jurisdiction rose from 40 percent in 1992 to 60 percent. Between January and September, the CSJ ruled on 39 jurisdictional disputes between the civilian and military justice systems, assigning 16 cases to the civilian justice system, 5 cases to the military justice systems, and abstaining from ruling on 18 cases.

The Government stated that it did not hold political prisoners.

The ICRC had access to the approximately 3,000 prisoners accused of terrorism, rebellion, or aiding and abetting insurgency.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides for the protection of these rights, and the Government generally respected them in practice; however, at times the authorities infringed upon them.

On August 8, President Uribe declared a “State of Internal Disturbance”—upheld by the Constitutional Court on October 2—that granted him expanded emergency powers with the potential to abridge individual rights. On September 10, President Uribe issued Decree 2002, which allowed members of the public security forces to perform arrests, searches, and wiretaps without a written warrant. Oral authorization from a judicial authority was still required, except in exigent circumstances. Arrests, searches, and wiretaps made without prior judicial authorization had to be fully justified within 24 hours. On November 26, the Constitutional Court struck down’s Decree 2002’s grant of police powers to the armed forces, ruling that only prosecutorial authorities may determine when privacy rights can be infringed in the interests of public safety. Decree 2002 also authorized the creation of special “Rehabilitation and Consolidation Zones” in which military authorities can exercise exceptional powers, including limiting civilian movements and temporarily commandeering private property and individual services. Two such zones were created during the year, one in the department of Arauca and another encompassing portions of Bolivar and Sucre departments. In its November 26 decision, the Constitutional Court overturned a provision granting the military authority to conduct censuses in these zones.

With the exception of exigent circumstances, the law generally requires a judicial order signed by a senior prosecutor for authorities to enter a private home without the owner’s consent, even in Rehabilitation Zones. The MOD continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations. This protection extends to prisoners. However, government authorities sometimes monitored telephone conversations without authorization.

An investigation by the Fiscalia continued into extensive illegal wiretapping of human rights NGOs by the Medellin GAULA (see Section 1.b.). Prosecutors also continued investigating the April 2001 killing of police officer Carlos Ceballos, who testified in the case (see Section 1.a.). The Procuraduria was conducting its own disciplinary investigation into Ceballos’s killing.

The Government generally did not punish family members for alleged violations committed by their relatives. However, there were complaints that some family members of guerrilla leaders were falsely accused of crimes. For example, on July 16, DAS officials in Bogota arrested Javier Carvajalino, brother of FARC leader Jesus Emilio Carvajalino, alias Andres Paris. Javier Carvajalino, a respected attorney with the Bogota district office of the Human Rights Ombudsman’s Office, was accused of conspiracy to commit terrorist attacks in the nation’s capital. The arrest was criticized not only by human rights NGOs, but by government officials as well, and on November 20, Carvajalino was released from custody following a decision by a senior prosecutor to close the case for lack of evidence.

Paramilitaries illegally monitored private communications in attempts to identify guerrilla collaborators. They also forcibly entered private homes when searching for suspected guerrillas. Paramilitaries caused forced displacement. Paramilitaries harassed, threatened, and killed individuals because of their membership in leftist political organizations, and also threatened and killed family members of known guerrillas.

Guerrillas also arbitrarily interfered with privacy, home, and family rights. For example, guerrillas used wiretaps and accessed private bank accounts to select victims to extort and kidnap. Guerrillas also broke into private homes in search of kidnap victims. The FARC caused mass displacements of peasants and engaged in forced conscription, particularly of minors (see Sections 1.g. and 5).

Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.).

Guerrillas continued a policy of killing, attacking, and threatening off-duty police and military personnel, their relatives, and citizens who cooperated with them.

Former female guerrillas reported forced abortions and forced implantation of intrauterine devices (see Section 1.g.).

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The country’s 40-year-old internal conflict—among government forces, several leftist insurgent groups, and a right-wing paramilitary movement nominally

supportive of the State—intensified during the year. The internal armed conflict, and the narcotics trafficking that both fueled it and prospered from it, were the central causes of violations of human rights and international humanitarian law. In her 2001 report, U.N. High Commissioner for Human Rights Mary Robinson noted that all sides in the conflict failed to respect the principles of humanitarian law. She said that “the conflict has deteriorated to such an extent that combatants are disregarding the most basic humanitarian precept—the defenseless civilian population and children continue to be the principal victims of these actions.” For example, in November 2001, the World Food Program reported that armed groups had been hijacking trucks carrying deliveries intended for displaced children.

The Human Rights Ombudsman’s Office stated in its 2001 report that women, who by and large remain socially and economically disadvantaged, continued to be affected disproportionately by violence, particularly in war zones (see Section 5). The Ombudsman’s Office also noted a lack of government programs to address their problems. Female leaders of political and peasant organizations in various regions were the targets of abuse, threats, torture, and executions. Intrafamilial violence, sexual assault, and killing of women remained serious problems throughout the country (see Section 5). More than 30 percent of FARC combatants were female. Several observers criticized the use of female combatants in guerrilla organizations as sex slaves (see Sections 1.f. and 5).

Government security forces generally abided by international humanitarian law and respected human rights; however, some members of the security forces violated these standards and committed serious violations of human rights. Data gathered by CINEP indicated that during the first 6 months of the year, state security forces were responsible for the deaths of 30 civilians during combat operations. Paramilitary groups and guerrillas committed the great majority of abuses.

In December Amnesty International (AI) published “Colombia: Security at What Cost?”, a report that alleged that the Government contributed to impunity by weakening the role of civilian human rights institutions, restricting the rights of civilians through security measures authorized by the declaration of a “State of Internal Disturbance” and Presidential Decree 2002, and drawing the civilian population into the internal conflict through policies such as its civilian informant program. The Government insisted it was not undermining civilian institutions and that enhanced security measures were necessary to establish a secure environment in which illegal armed groups could not infringe on human rights.

There were no reports during the year that the Government militarized public hospitals in conflict areas, which had increased the risk that the hospitals would become targets of guerrilla attack. There were no reports that the Government refused medical treatment to guerrillas. In 2000 the Constitutional Court ruled that state security forces could not maintain installations such as police stations next to schools, to avoid endangering the lives of students in case of guerrilla attacks; however, this practice continued in some communities.

Forced displacement is a crime; however, military counterinsurgency operations sometimes forced peasants to flee their homes and farms, and there was a very large population of IDPs (see Section 2.d.). NGOs and international governmental organizations sometimes blamed government negligence for large-scale displacements, as occurred in May in the department of Choco, where combat between the FARC and AUC along the Atrato River displaced at least 3,000 persons from the town of Bojaya and surrounding communities. The UNHCHR held the Government partly responsible for events at Bojaya, where 119 civilians died, since the Government appeared to have ignored warnings from the Catholic Church about large groups of paramilitaries traveling past military installations along the Atrato. On June 18, the Procuraduria opened a formal investigation into the conduct of the security forces before, during, and immediately after the Bojaya tragedy.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC. For example, in the weeks following the abolition of the former FARC “despeje,” the ICRC was the only international organization granted access to the region. The military readily incorporated Red Cross curriculums on international humanitarian law in standard military training. However, impunity remained a problem. According to military sources, local commanders often transferred or discharged soldiers accused of serious human rights violations, rather than initiate legal proceedings. It remained unclear how many suspected human rights violators were investigated or prosecuted after being dismissed (see Section 1.e.).

There was still no decision by an army judge regarding the responsibility of members of an army unit for the 2000 shooting deaths of six children in the town of Pueblo Rico, Antioquia department. The Superior Military Tribunal returned the case for reconsideration in April 2001 following an initial ruling of innocence based

on findings that the children were caught in a crossfire between the army and ELN guerrillas. A decision by the Procuraduria was pending regarding a parallel disciplinary investigation of the case.

In October the Procuraduria ordered the dismissal of two air force pilots involved in the 1998 bombing of the town of Santo Domingo, Arauca department. The pilots, who at the time of the bombing were supporting army units engaged in combat with the FARC, were ruled to have acted negligently. On October 31, the Constitutional Court ruled that a parallel criminal case being handled by the military justice system should be transferred to civilian court. The air force refused to accept responsibility for the incident. On January 25, presumed paramilitaries shot and killed Angel Riveros, a witness in the Santo Domingo investigation and community leader in Arauca department.

Some members of the public security forces—principally enlisted personnel and noncommissioned officers—collaborated with or tolerated the activities of illegal paramilitaries. Reasons for collaboration or tolerance varied from ideological sympathy and perceived operational exigencies to corruption and participation in illegal paramilitary activities such as drug trafficking. On May 27, civilian law enforcement authorities arrested army Major Orlando Alberto Martinez for his alleged role in trafficking thousands of AK-47 assault rifles from Bulgaria to the AUC. On May 30, Martinez was dismissed from the armed forces based on the discretionary powers of Presidential Decree 1790 of 2000 (*see* Section 1.e.).

Civilian defense authorities and the military high command repeatedly emphasized official opposition to paramilitarism and the Government's commitment to combat paramilitaries and guerrillas with equal vigor. In the first 11 months of the year, public security forces killed 183 paramilitaries in combat and captured 1,214.

Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. There were approximately 12,000 paramilitaries in the country, organized into several associations, the largest and most influential of which was the terrorist organization AUC. The AUC experienced a series of leadership crises during the year that led to its temporary breakup and a reduction in its membership. The largest of the paramilitary organizations that formally remained a part of the AUC was the United Self-Defense Forces of Cordoba and Uraba (ACCU), which operated in the northern part of the country and was led by the principal organizers of the AUC, Carlos Castano and Salvatore Mancuso.

Following a November 2001 statement by Castano promising an end to paramilitary massacres, the number of massacres committed by paramilitaries appeared to drop dramatically. However, paramilitaries still committed massacres and were responsible for many selective political killings (*see* Section 1.a.), which frequently involved kidnaping and torture (*see* Sections 1.b. and 1.c.). Paramilitary groups used terror as a tactic to take support away from guerrillas.

Paramilitaries forcibly displaced civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas. For example, on August 18, approximately 400 armed paramilitaries arrived in the villages of San Francisco and Puerto Matilde, located in a FARC-dominated region along the Cimitarra river in the municipality of Yondo, Antioquia department. Approximately 600 persons were displaced. The Human Rights Ombudsman's Office reported receiving 1,528 complaints of forced displacement by paramilitaries as of October 31. Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement, particularly in the departments of Choco, Antioquia, Santander, Bolivar, Cesar, and La Guajira (*see* Section 2.d.). For example, in March, paramilitary violence and intimidation against persons transporting food and supplies to the town of San Jose de Apartado, in the Uraba region of Antioquia department, created a *de facto* blockade of the town.

Hundreds of civilians died during the year as a result of combat between paramilitaries and guerrillas. For example, the UNHCHR held the AUC partly responsible for the deaths of 119 civilians killed by a FARC cylinder bomb in Bojaya, Choco department, based on the fact that AUC fighters exposed the civilian population to danger by taking shelter in the town. Throughout the year, civilians in poor urban areas and rural districts were killed and wounded during exchanges of gunfire between illegal armed groups. For example, on May 30, four civilians in the "Veinte de Julio" neighborhood of Medellin, Antioquia department, were killed by stray bullets during a firefight between paramilitaries and leftist urban militias.

Paramilitaries failed to respect the injured and medical personnel. Doctors and hospitals suspected of treating guerrillas were frequently declared military targets. For example, on August 16, paramilitaries posing as patients killed nurse Amparo Figueroa at the local hospital in the town of Miranda, Cauca department. Figueroa's name figured on a paramilitary hit list of health care personnel accused of providing

medical care to guerrillas. The March 2001 paramilitary kidnaping and killing of a wounded ELN guerrilla being transported in a Red Cross ambulance led the ICRC to suspend the evacuation of wounded combatants. ICRC evacuations remained suspended throughout the year. On December 31, the AUC issued a written pledge that it would not attack ambulances, medical infrastructure, medical workers, and members of medical missions.

In anticipation of potential peace negotiations with the Government, the AUC declared a unilateral cease-fire beginning December 1. Several unaffiliated paramilitary groups agreed to abide by similar cease-fires. On December 16, Congress amended Public Order Law 418 of 1997, which authorizes the President to negotiate with "illegal armed groups", to allow negotiations with groups, such as paramilitaries, that had not been granted "political status" by the Government. On December 26, the Government named six individuals to a special "exploratory commission" that, in cooperation with Peace Commissioner Luis Carlos Restrepo, was to make contact with paramilitary groups that had expressed an interest in seeking peace with the Government. However, not all paramilitaries abided by the cease-fire, and some continued to commit serious violations of human rights.

Although paramilitaries continued to recruit minors throughout the year (*see Section 5*), in December the Central Bolivar Block released a total of 19 child soldiers into the custody of a humanitarian commission headed by the Colombian Family Welfare Institute (ICBF) (*see Section 5*).

The country's two largest left-wing guerrilla organizations are the 16,500 member terrorist organization Revolutionary Armed Forces of Colombia (FARC) and the 4,500 member terrorist organization National Liberation Army (ELN). While the FARC has grown larger and more prosperous in recent years, due to drug trafficking and the temporary security of the *despeje*, the ELN has been in steady decline. In many areas previously dominated by the ELN, the two guerrilla groups worked together to combat government forces and paramilitaries.

Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through unlawful killings, kidnapings, and torture (*see Sections 1.a., 1.b., and 1.c.*). Guerrillas were responsible for a large percentage of civilian deaths related to the internal conflict. The Human Rights Ombudsman's Office reported that as of October 31, 63 percent of complaints it had received regarding violations of international humanitarian law related to abuses by guerrillas. The FARC alone accounted for at least 45 percent of these complaints. According to CINEP, guerrillas killed 1,243 civilians during the first 6 months of the year. CINEP attributed 1,115 of these deaths to the FARC, and 58 to the ELN. The Ministry of Defense attributed 916 civilian deaths, or 70 percent of total unlawful killings, to guerrillas (*see Section 1.a.*). The FARC continued to kidnap, torture, and killing off-duty soldiers and policemen as part of its openly acknowledged "Pistol Plan" (*see Sections 1.a., 1.b., and 1.c.*). Guerrillas also were responsible for attacks on religious and indigenous leaders and forcibly recruited minors (*see Sections 1.g., 2.c., and 5*).

Guerrillas failed to respect the injured and medical personnel. Both the FARC and ELN frequently executed wounded prisoners and threatened and killed doctors and nurses. On August 30, for example, a joint FARC/ELN unit attacked an ambulance outside the town of Morales, Bolivar department, seriously injuring three health care workers. On July 28, the ELN stopped an ambulance outside the town of Cravo Norte, Arauca department, killed the driver, and stole the medicine he was transporting. On December 31, the ELN issued a written communique in which it pledged not to attack ambulances, medical infrastructure, medical workers, and members of medical missions. According to the Free Country Foundation, guerrillas were responsible for the kidnapings of 29 doctors during the year, most for economic reasons (*see Section 1.b.*).

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. For example, in early August the FARC forced the departure of at least 1,600 peasants from the village of Puerto Alvira, Meta department, which is located along the Guaviare river, a key transit route. The Human Rights Ombudsman's Office reported receiving 2,202 complaints of forced displacement by guerrillas, including at least 1,500 instances of forced displacement by the FARC. Guerrillas also blockaded communities in areas in which they exerted control. For example, following a major landslide in the San Lucas mountain range of Bolivar department that destroyed several small communities, the ELN prevented government officials and rescue teams from reaching the area for nearly a week. On December 30, near the town of San Lucas, eastern Antioquia department, the ELN declared that no vehicle would be allowed to enter or leave the town. The following day, less than a mile outside of town and despite the presence in San Lucas of significant numbers of police and army personnel, the ELN enforced its order by executing five truck drivers

who ignored its edict. Later on December 31, the ELN destroyed a major bridge linking San Lucas with the Medellin-Bogota highway.

Guerrillas used landmines to defend static positions such as base camps and drug labs and as indiscriminate weapons of terror. According to the Vice President's Office, landmines killed an average of two persons each day. There were approximately 100,000 landmines in use in the country, spread throughout 40 percent of the national territory. There were 155 land mine incidents through September 15, involving 459 victims, 107 of whom died. Fifty-five percent of these casualties were members of the Armed Forces. Guerrillas were responsible for over 90 percent of landmine incidents. In September the International Campaign to Ban Landmines singled out the FARC for criticism as one of the world's foremost users of landmines. The FARC disguised landmines as everyday items such as soccer balls and paint cans, and increasingly used plastic mines that could not be detected by standard minesweeping technology. Thousands of IDPs were unable to return to their homes because of fear of landmines (*see* Section 2.d.).

Combat between guerrillas and state security forces or paramilitaries resulted in thousands of civilian casualties. For example, on May 2, FARC forces launched an inaccurate gas cylinder bomb at AUC forces taking cover in the small town of Bojaya, located along the Atrato river in central Choco department. The bomb struck the town church, where approximately 300 civilians had sought refuge from the fighting, leaving 119 civilians dead, including 45 children, and at least 105 wounded. On May 20, the UNHCHR's country office held the FARC responsible for having fired the gas cylinder. On June 8, FARC commander Alfonso Cano was reported to have described the Bojaya attack as a mistake caused by the nature of warfare. On November 8, AI published a letter to FARC Commander Manuel Marulanda rejecting Cano's excuse and calling on the FARC to issue a statement promising to respect the right of the civilian population not to be drawn into the armed conflict.

According to the Ministry of Defense, as of November 30, guerrillas, particularly the FARC, and, to a lesser extent, the ELN, committed nearly 1,000 terrorist bombings. In the early morning hours of April 7, for example, a large car bomb exploded in a congested nightclub area of Villavicencio, Meta Department. The car bomb, which killed 11 and wounded at least 70, was detonated as a secondary device that targeted onlookers who arrived to see the results of a smaller explosion 5 minutes earlier. On October 22, a FARC car bomb exploded outside Bogota's metropolitan police headquarters, killing 3 persons and injuring at least 39. A similar bomb exploded outside another Bogota police station on December 9, injuring 35. On December 10, Bogota police seized four additional FARC car bombs capable of even greater destruction. On December 13, a powerful FARC bomb disguised as a briefcase exploded in a crowded restaurant on the 30th floor of an upscale residential and commercial complex in Bogota, wounding at least 30 persons. On December 21, the ELN detonated a large car bomb next to police headquarters in Cucuta, Norte de Santander department, killing four civilians.

The FARC also targeted particular individuals for bombings. On December 13, for example, a FARC book bomb exploded in the hands of Senator German Vargas, a strong supporter of President Uribe. Vargas lost a finger in the explosion. On August 20, a similar book bomb addressed to Prosecutor General Luis Camilo Osorio was intercepted by CTI agents before it reached him. The FARC also used other, more creative methods of bomb delivery, such as attaching explosives to mules and dogs, rigging lost wallets, and booby-trapping dead bodies. For example, on April 22, members of the FARC's 61st Front forced two children to lead a horse loaded with explosives toward a military checkpoint near the town of Acevedo, Huila department. The charge exploded prematurely, killing one of the children. On May 3, FARC guerrillas killed a 14-year-old boy, attached explosives to his body, and forced a civilian to drive it to an army barracks in Vista Hermosa, Meta department, where it was deactivated by military anti-explosives experts. On December 30, near Cerro Azul, southern Bolivar department, an army soldier lost a leg when he accidentally activated a FARC-rigged bomb attached to the body of a dead paramilitary fighter killed in FARC-AUC combat 5 days earlier.

Following the abolition of the despeje in February, the FARC intensified its systematic campaign to attack and cripple the nation's infrastructure. According to government figures, the FARC destroyed 483 electrical towers, costing the nation approximately \$335 million (760.45 billion pesos) in repair costs and overall damage to the national economy. Large regions of the country were plunged into darkness for weeks at a time. The town of San Vicente del Caguan, former capital of the despeje, which depended on electrical pumps to draw water from underground wells, suffered particularly serious deprivation as threats of FARC violence discouraged private trucking companies from shipping in water, food, and other basic supplies.

As of September 30, the National Transportation Association reported that at least 75 buses had been hijacked and destroyed by guerrillas, resulting in a loss of at least \$4 million (9.08 billion pesos).

The FARC, in conjunction with the ELN, also blew 74 holes in the nation's oil pipelines, resulting in a loss of approximately \$225 million (510.75 billion pesos) in government revenue. Attacks on the oil infrastructure also caused significant environmental damage. On August 12, prosecutors formally charged 9 members of the ELN, including senior leader Nicholas Rodriguez, alias "Gabino", with murder for a 1998 oil pipeline bombing in Antioquia department that killed 84 persons. The FARC also destroyed 62 telecommunications towers and 100 bridges. In addition, the FARC committed 12 attacks against dams and aqueducts, the most notorious of which was its attempt to blow a hole in Chingaza Dam, Bogota's principal source of drinking water. Had the attack on Chingaza succeeded, it would not only have risked the water supply of the country's largest city, but also flooded and destroyed Villavicencio, a city with an estimated population of 300,000 and capital of the department of Meta.

In its November 8 letter to FARC commander Manuel Marulanda, AI expressed concern over the FARC's July 23 killing of Embera indigenous leader Bertuflor Domico in Dabeiba, Antioquia department (*see* Section 5). The letter also described the killing of several evangelical pastors, including Abel Ruiz on July 31, by presumed FARC members in San Vicente del Caguan, Caqueta department (*see* Section 2.c.). Amnesty, as it has in the past, criticized the recruitment of minors and the violence committed against women in the FARC (*see* Section 5). The letter called on the FARC and all armed groups in the country to respect the rights of noncombatants.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and the press and the Government generally respected these rights in practice; however, journalists regularly practiced self-censorship to avoid retaliation and harassment by various groups. Individuals criticized the Government both publicly and in private without fear of reprisal. The privately owned print media published a wide spectrum of political viewpoints and often sharply criticized the Government without fear of reprisals. Media ownership remained highly concentrated. Wealthy families or groups associated with one of the two dominant political parties consolidated their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and reduced staff. In September financial problems forced *El Espectador*, the nation's oldest newspaper, to change from a daily to a weekly publication. Economic problems and concentration of media ownership limited the media's resources, causing it to rely heavily on a smaller pool of advertisers, including the Government. The National Television Commission continued to oversee television programming throughout the year.

The Government did not use libel laws to suppress criticism or engage in direct or indirect censorship of the media. However, the media's reliance on government advertising revenues may have reduced its criticism of government actions and policies.

The Government did not assert "national security" to suppress views that were merely politically embarrassing or objectionable on other grounds. However, Reporters Without Borders criticized the presidential decree that created Special Rehabilitation and Consolidation Zones in highly conflictive areas that foreigners, including journalists, could enter only with special permission from government authorities. The organization stated that "the possibility of journalists being refused entry into the special zones is a flagrant violation of the Inter-American Human Rights Convention, whose article 13 guarantees freedom of movement for journalists." In accordance with a November 26 decision by the Constitutional Court, the Government announced that it would grant foreign press correspondents registered with the Government's international press office expedited authorization to visit Rehabilitation Zones. A ban on the publication of evidence pertaining to criminal investigations, based on secrecy provisions of the penal code and an anticorruption statute, also remained in effect.

Police or other public security forces generally did not subject journalists to harassment, intimidation, or violence. However, there were exceptions, as well as reports of threats against journalists from local officials accused of corruption. On January 30, unknown persons shot Orlando Sierra, deputy editor and columnist for *La Patria* newspaper in Manizales, Caldas department. He died on February 1. On May 9, Luis Fernando Soto was sentenced to 19 years in prison for the crime, but accept-

ed a plea bargain that reduced his sentence by 10 years. Two other persons were under arrest and awaiting trial. A joint investigation by seven prominent newspapers and magazines revealed that local politicians, whom Sierra had frequently accused of corruption, may have ordered his killing.

During the year, both paramilitaries and guerrillas intimidated, threatened, kidnaped, and killed journalists. According to information gathered by the International Federation of Journalists (IFJ) and the Colombian Foundation for Press Freedom (FLIP), at least 10 media representatives were killed, 75 threatened, and 12 kidnaped. At least four of the media representatives killed during the year were killed as a direct consequence of their work. The number of reported threats was believed to be low, since many targeted individuals did not report threats to government authorities or NGOs. Domestic and international NGOs and other international organizations reported self-censorship by the media due to threats from illegal armed groups. In May the Committee to Protect Journalists included the country on a list of the 10 worst places to be a journalist, noting that 29 journalists had been killed in the country in the last 10 years.

Paramilitaries regularly threatened journalists. For example, in an interview published in the July 8 edition of Santander department's *Vanguardia Liberal* daily, a paramilitary commander from the Middle Magdalena region threatened to execute journalists who published sensationalistic stories about paramilitary atrocities. In a July 29 communique, paramilitaries in the department of Arauca stated that "journalists, anchormen, correspondents, and media owners and managers" would be declared "military targets" if they failed to "live up to the responsibilities of their profession."

On March 21, *El Espectador* columnist Fernando Garavito went into exile abroad because of death threats, allegedly from paramilitaries. In his columns, Garavito had harshly criticized paramilitary groups, as well as then-presidential candidate Alvaro Uribe.

Paramilitaries were suspected of killing journalists. For example, on June 28, outside the city of Arauca in the department of the same name, presumed paramilitaries intercepted a vehicle driven by Efraim Alberto Varela, director of local radio station Meridiano 70. Despite the pleas of Varela's sister and brother-in-law, he was removed from the vehicle and killed. Six days before his death, he had denounced on the air the arrival of over 100 paramilitaries in the city of Arauca.

No progress appeared likely in an investigation by the Fiscalia into the September 2000 paramilitary killing of Carlos Jose Restrepo, publisher of a small newspaper in the department of Tolima and a former member of the now demobilized M-19 guerrillas.

In November a specialized criminal court in Bogota began receiving evidence in the trial of two hired killers suspected of killing journalist, comedian, and human rights activist Jaime Garzon in 1999. AUC leader Carlos Castano was being tried in absentia for his role in organizing Garzon's death.

On July 26, a specialized criminal court in Bucaramanga, Santander department, sentenced two paramilitaries to 19 years in prison for the 1999 murders of cameraman Luis Alberto Rincon and photographer Alberto Sanchez in the town of Playon.

The offices of the Prosecutor General and Inspector General were awaiting a ruling on their appeals of "not guilty" verdicts issued in favor of two paramilitaries accused of murdering newspaper editor Guzman Quintero in Valledupar, Cesar department, in 1999.

There were no developments in the investigation of the 2000 kidnaping and rape of journalist Jinet Bedoya by men identifying themselves as paramilitaries. No progress in the case appeared likely.

Guerrillas frequently threatened journalists. For example, in July the FARC's urban front operating in Cali, capital of Valle del Cauca department, sent a statement to the local office of the RCN media group accusing eight journalists of being "enemies of the people and defending the interests of the ruling oligarchy." The eight were warned to leave the city within 3 days or be killed.

Guerrillas also kidnaped journalists or held them against their will. For example, on February 19 and 20 near the village of El Currillo on the border between the departments of Putumayo and Caqueta, members of the FARC's 49th Front held foreign correspondent T. Christian Miller captive while they verified his press credentials. They released Miller after 24 hours in captivity. On August 6, near the town of Mistrato in the department of Risaralda, members of the FARC's Aurelio Rodriguez Front kidnaped three media representatives from the local *El Tiempo Cafe* newspaper and released them the next day. Most guerrilla kidnapings of journalists were brief.

Guerrillas also killed media representatives. For example, on July 11, members of the FARC abducted and shot Elizabeth Obando at a roadblock near the town of

Playa Rica, Tolima department. Obando died from her wounds on July 13. Obando, who was responsible for the distribution of regional newspaper *El Nuevo Dia* in the municipality of Roncevalles, had been involved in a public confrontation with a regional FARC leader who objected to a story in the paper criticizing FARC extortion, child soldier recruitment, and forced "agrarian reform" in the area.

Threats of violence drove at least 13 journalists into exile, joining five who had left the country in 2001. Former RCN journalist Claudia Gurisatti remained in exile because of FARC threats. Three suspects arrested for conspiring to kill her were released because of lack of evidence. Vice President Francisco Santos, former editor of the country's largest circulation newspaper, Bogota's *El Tiempo*, and founder of the Free Country Foundation, a prominent anti-kidnaping NGO, returned from exile to assume the responsibilities of the vice-presidency.

The authors of most threats and acts of violence against journalists remained undetermined. For example, no progress was made and little further progress seemed likely in investigations by the Fiscalía into the 2000 deaths of radio journalists Guillermo Leon and Alfredo Abad in Florencia, capital of Caqueta department.

In October the International Federation of Journalists opened an office in Bogota to monitor violence against the media and help provide assistance to local journalists. In 2000 the Inter-American Press Society had opened its own rapid action unit in Bogota to help the Fiscalía investigate crimes against journalists. The Ministry of Interior operated a program for the protection of journalists, established by an August 2000 presidential decree. During the year, the program provided protection to 41 journalists. The Ministry of the Interior also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line. In October the Attorney General's office, in response to rising crimes against journalists, added 12 new prosecutors to its unit dedicated to investigating attacks against the press.

Domestic organizations that promoted freedom of the press included the Colombian Foundation for Press Freedom (FLIP) and Media for Peace.

The Government did not limit or block access to the Internet or censor websites.

The Government did not restrict academic freedom. However, paramilitary groups and guerrillas maintained a presence on many university campuses, aimed at generating political support for their respective campaigns and undermining support for their adversaries through both violent and nonviolent means. Paramilitaries threatened and killed university professors and students they suspected of leftist sympathies. For example, in 1999 the AUC took credit for killing a University of Antioquia student. Following the killing, the AUC released a list of other "subversive" students it demanded cease their "delinquent activities" or leave the university on pain of death. Several of these students withdrew. Paramilitaries have had their greatest influence in the north of the country, where in the last 7 years they are suspected of killing as many as 12 students and professors at the University of Atlantico, in Barranquilla, Atlantico department, and as many as 10 at the University of Cordoba, in Monteria, Cordoba department.

Leftist guerrillas used university campuses to plan, prepare for, and carry out terrorist attacks. On October 26, the Medellin metropolitan police discovered 332 explosive devices hidden on the campus of the University of Antioquia. The explosives were linked to an illegal student organization with ties to FARC urban militias. On November 20, a protest at the Industrial University of Santander (UIS), in Bucaramanga, turned violent, apparently after six members of the ELN infiltrated the demonstration against the university's new private security firm, which leftist students accused of participating in the Government's civilian informants program. One student was killed, and 10 students and 12 policemen were injured. On November 22, four mortar rounds launched from the campus of the National University landed on a grass field in front of the headquarters of the Fiscalía, wounding one passerby. At year's end, a government investigation had uncovered no evidence of student involvement in the attack.

Both paramilitary groups and guerrillas regularly threatened and killed public school teachers, particularly at the high school level. In November Minister of Education Cecilia Maria Velez reported that approximately 800 teachers, mostly in rural areas, were working under the shadow of death threats from illegal armed groups, particularly the FARC. According to the National Teacher's Union (FECODE), 83 teachers were killed during the year, most by paramilitaries. For example, on October 28, in the village of Media Luna, Pivijay municipality, Magdalena department, four alleged members of the AUC shot and killed Oscar David Polo at the entrance of the school where he taught. Four teachers were killed in this small municipality during the year, and 9 total in the department of Magdalena. A total of 14 teachers were killed in the department of Antioquia, more than in any other department.

Investigations continued into 1999 attacks against three prominent academics: Jesus Antonio Bejarano, a former government peace commissioner; Dario Betancur, head of the social sciences faculty of Bogota's Universidad Pedagogica; and Hernando Henao, an anthropologist who published on the subject of displaced persons. Prosecutors suspected the FARC of responsibility for Bejarano's death and the AUC of responsibility for killing Henao.

As a result of these and other incidents, many professors and students assumed a lower profile. Some universities banned extracurricular social activities that addressed controversial topics related to the internal armed conflict. Some academics went into voluntary exile.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice. The authorities normally did not interfere with public meetings and demonstrations and granted the required permission except when they determined that there was imminent danger to public order.

There were large demonstrations on many occasions by citizens throughout the country, some to repudiate terrorist activities, and others to protest government budget cuts and social policies. The authorities generally did not interfere. For example, on September 16, approximately 800,000 public employees throughout the country went on strike and held large marches in major cities to protest government-sponsored pension, labor, and tax reform bills. The protest was generally peaceful. However, the following day, government officials announced that employees whose positions were considered essential, such as firefighters and judges, would be sanctioned for having participated in the strike. Also, throughout the week of September 16 there were clashes between members of the public security forces and peasants conducting parallel mobilizations in rural areas to protest government agricultural programs and related policies. The security forces temporarily detained hundreds of peasants to enforce a government decree that prohibited impeding transportation on public highways. The Government claimed, and some peasants confirmed, that the FARC pressured some peasants into participating in the protests. On September 17, the Government expelled three Spanish citizens it claimed were inciting peasant protests (*see* Section 4).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Legal organizations are free to associate with international groups in their field. However, membership in proscribed organizations such as the FARC, ELN, EPL, and AUC is a crime. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against labor unions and NGOs (*see* Sections 4 and 6.a.).

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

Although there is no official state religion, most citizens were Roman Catholic and the Roman Catholic Church retained a *de facto* privileged status. Accession to a 1997 public law agreement with the State is required for non-Roman Catholic religions to minister to their adherents in public institutions, such as schools and hospitals. Although 12 Christian churches acceded to the agreement, the Government has not given a similar opportunity to hundreds of other mostly small, evangelical churches that received legal recognition after 1997. Protestant churches also complained that new zoning laws showed *de facto* favoritism toward Roman Catholicism, since most Roman Catholic cathedrals were constructed before zoning laws were instituted and were therefore exempt from the laws' requirements.

The Human Rights Unit of the Fiscalía reported that it was investigating 42 crimes believed to have been religiously motivated.

Paramilitaries sometimes harassed religious leaders and members, usually for political reasons.

On March 6, a court sentenced the convicted murderer of Roman Catholic priest Jorge Luis Maza and Spanish aid worker Inigo Egiluz to 31 years in prison. Nine alleged members of a paramilitary group arrested in connection with this crime were released for lack of evidence. The case was closed at year's end.

The FARC and ELN threatened and committed acts of violence against religious leaders and members, usually for political reasons, and inhibited the right to free religious expression in areas they controlled.

The Bishop's Conference of the Roman Catholic Church reported that illegal armed groups killed 11 Catholic priests during the year. The FARC is suspected of most of these killings. On January 12, Guillermo Leon Corrales, a Roman Catholic priest resident overseas who was visiting family, was killed in the town of La Estrella, near Medellin, Antioquia department. Several years earlier, Corrales had been threatened by members of a radical leftist student organization at the Medellin

high school where he taught. Another priest was confirmed killed by the FARC in the same region the following day. The Government was investigating the possibility that the killings were related.

On March 16, Isaias Duarte, Roman Catholic Archbishop of Cali, was killed as he left a church in a poor Cali neighborhood. On November 29, the Fiscalía indicted FARC 30th Front commander John Fredy Jimenez and a hired gunman for carrying out the crime. A second gunman had been killed in prison in May. Prosecutors also opened a formal investigation of seven members of the FARC Secretariat, including Pedro Antonio Marin, alias "Tirofijo," and Jorge Briceno, alias "Mono Jojoy," who they suspected ordered Duarte's killing to silence his blunt criticism of their criminal activities and insincerity in peace negotiations.

On July 13, two unknown assailants killed Sister Marta Ines Velez, director of the Marcelino Mothers Shelter in the town of Mogotes, Santander department. Sister Velez was the religious community delegate to the Mogotes community assembly, an organization whose efforts to promote peace won the town the country's 1998 National Peace Prize.

On October 20, the army foiled a plot by the FARC to kidnap Francisco Javier Munera, the Roman Catholic Bishop of Florencia, Cauqueta department. After the army learned of the plot, Bishop Munera was moved to a different location.

On November 11, FARC guerrillas kidnaped Jorge Enrique Jimenez, president of the Latin American Bishops Conference and Bishop of Zipaquirá, Cundinamarca department, along with parish priest Desiderio Orjuela. On November 15, members of the armed forces rescued the two churchmen.

According to the Christian Union Movement (MUC), an association of evangelical Christian churches, 32 Protestant pastors had been killed as of November 30. According to the MUC, 93 pastors had been killed since 1994. The FARC was believed responsible for 90 percent of the killings of Protestant pastors. FARC threats and violence forced the closure of hundreds of evangelical churches, particularly in the southwestern part of the country. According to the MUC, the FARC targeted Protestant pastors and church members for political, rather than religious, reasons.

In August FARC guerrillas shot and killed Pentecostal clergyman Abel Ruiz in San Vicente del Caguan, Cauqueta department, capital of the FARC's former despeje. On July 14, FARC guerrillas shot and killed Jose Vicente Flores, another United Pentecostal Church minister, in the same church.

On October 17, near the town of Anserma, Caldas department, ELN guerrillas executed Bishop Gabriel Arias, Vicar of Armenia, Quindio department, while Arias was on a humanitarian mission to plead for the release of former Quindio governor Ancizar Lopez, the victim of an ELN kidnaping.

Authorities failed to capture the FARC's Arley Leal and Milton de Jesus Tonal, who were suspected of the 1998 killing of Roman Catholic priest Alcides Jimenez in Putumayo. The Procuraduria continued to investigate possible government negligence in failing to prevent the killing.

Investigations continued into the March 2000 killing of Roman Catholic priest Hugo Duque in Supia, Caldas department, and the March 2001 killing of Protestant pastor Onofre Hernandez in Arauca City, Arauca department. There appeared to be little likelihood of progress in either case.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respected this right in practice; however, there were exceptions. For example, in areas where counterinsurgency operations were underway, police and military officials often required civilians to obtain safe-conduct passes. In special Rehabilitation and Consolidation Zones established by presidential decree, travel was restricted and persons were sometimes detained for up to 24 hours so that officials could conduct identification checks as provided by law. Paramilitaries and guerrillas used similar means to restrict travel in areas they controlled. The Government implemented curfews in conflict zones. Outsiders who wished to enter indigenous reservations had to be invited.

Throughout the year, roadblocks erected by paramilitaries guerrillas, and peasant farmers inhibited transportation, communication, and commerce (see Sections 1.g. and 2.a.). Social organizations also resorted to blocking roads to protest government actions or policies (see Section 2.b.). Almost every major artery was closed at some point during the year. There were numerous reports of members of indigenous communities, particularly in Putumayo, being forbidden to leave their communities without either paramilitary or FARC permission, and in which paramilitaries and guerrillas blockaded communities.

The U.N. High Commissioner for Refugees (UNHCR) reported that 5,086 Colombians registered as refugees in Ecuador, Panama, and Venezuela. An additional 3,995 Colombians requested asylum in Ecuador, the neighboring country with the most liberal asylum policy. Hundreds of Colombians also fled to Costa Rica. There were few reports of the forced return of refugees from Panama, Ecuador, or Costa Rica, although most refugees received little assistance. There continued to be reports that refugees were forcibly repatriated from Venezuela.

In April the Constitutional Court upheld a May 2000 law that criminalized forced displacement; however, there was a large population of IDPs caused by forced conscription and incursions by paramilitaries and guerrillas, battles between illegal armed groups, and military counterinsurgency operations that displaced peasants from their homes and farms.

Both paramilitaries and guerrillas used forced displacement to gain control over disputed territories and to weaken their opponents' base of support. Authorities sometimes encouraged civilian populations to move back to their homes before security situations had normalized, or civilians returned before it was advisable.

In August 2001, the U.N. Special Coordinator on Internal Displacement characterized the country's internal displacement problem as "acute." According to the UNHCR, the country ranks second among countries with the largest IDP populations. The Government estimated that there were 350,000 new displaced persons during the year, a significant increase from 2001. According to the Consultancy for Human Rights and Displacement (CODHES), a human rights NGO specializing in displacement issues (*see* Section 4), 353,000 civilians were displaced during the first 9 months of the year. If CODHES's statistics were accurate, and displacements continued at the same rate during the last 3 months of the year, over 400,000 persons were displaced during the year, an increase of at least 50,000 over 2001. Precise numbers of IDPs were difficult to obtain, since some were displaced more than once and many did not register with the Government or NGOs. The FARC and the ELN discouraged IDPs from registering with the Government through force, intimidation, and disinformation. Guerrilla agents masqueraded as IDPs to sow doubt and discontent among the displaced population. The Government's IDP service agency, the Social Solidarity Network (RSS), reported a significant increase in the number of municipalities affected by displaced populations. According to government figures, since 1996 over 927,000 citizens had registered as IDPs. CODHES estimated that over 2 million persons were displaced over the same period. The RSS worked with the UNHCR, CODHES, and the Bishop's Conference of the Roman Catholic Church to develop a system for providing more accurate estimates of IDPs; however, they had yet to reach agreement on such a mechanism.

CODHES stated that some persons have been displaced for as long as 10 years, but it could not define a typical timeframe. CODHES estimated that 65 percent of displacements became permanent, while the ICRC placed the figure at 50 percent. The U.N. Thematic Group, an intersectoral working group composed of U.N. agencies, government agencies, and NGOs, reported that state agents were responsible for less than five percent of displacements during the year. Paramilitaries, on the other hand, were responsible for 55 percent, and guerrillas for 40 percent.

The vast majority of IDPs were rural peasants displaced to cities, where many had difficulty integrating into society. Many displaced persons settled on the outskirts of large cities such as Bogota, Bucaramanga, Medellin, and Cartagena, where conditions were overcrowded and unsanitary. Poor neighborhoods were overwhelmed by a need for basic public services. According to CODHES, 57 percent of IDPs were women, 22 percent were female heads of household, and 70 percent were under the age of 19. In July UNHCR reported that 72 percent of all IDPs were women and children. Some families fled or remained displaced to avoid the forced recruitment of their children by guerrillas (*see* Sections 1.f. and 5). Thousands of IDPs were unable to return to their homes because of the presence of antipersonnel mines (*see* Section 1.g.). Displaced women and girls were particularly vulnerable to domestic violence and sexual abuse and exploitation (*see* Section 5). PAHO reported that only 65 percent of displaced households had access to health services through the general social security system, and that many could not afford the required co-payment, despite the fact that it was as low as 15 percent of a person's total medical expenses. UNICEF estimated that only 68 percent of displaced children attended school. Malnutrition among displaced children was common. According to the UNHCR, more than one-third of IDPs were indigenous or Afro-Colombian.

The Government was unable to provide sufficient humanitarian assistance to the displaced, despite statutes and court rulings requiring it to do so. Although conditions for IDP communities varied in different regions, conditions for displaced persons in many locations were poor and unhygienic, with little access to health care, and few educational or employment opportunities. Government assistance for the

displaced was provided principally through the RSS, the Colombian Family Welfare Institute (ICBF), and the Ministry of Health. However, the Government itself acknowledged that the ICRC and various NGOs provided 70 to 80 percent of humanitarian assistance received by the displaced. Most displaced persons received emergency humanitarian assistance from the ICRC, the RSS, or NGOs for only 90 days, although some IDPs received it for longer, and others never received any aid. The ICRC provided emergency assistance to 200,000 displaced persons during the year. The local office of the UNHCR, which is headquartered in Bogota and has four field offices throughout the country, worked to strengthen the Government's ability to address the IDP crisis. In June the UNHCR expanded to Antioquia department a project begun in 1999 to provide identification documents to IDPs. More than 52,000 persons had received documents under the project since its inception.

On December 21, the police removed an organized group of 106 IDPs from the former headquarters of the ICRC in Bogota. It appeared that the squatters departed voluntarily after having been warned that if they did otherwise, they would be forcibly evicted. Many of the IDPs already owned homes through a government-sponsored subsidy program. Those who did not own homes were lodged in a local hotel at government expense until other accommodations were found. Prior to the IDPs' expulsion, at least 200 others had either moved to their subsidized homes or found other long-term solutions that allowed them to leave the ICRC's former headquarters.

The Constitution provides for the right to asylum under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has a tradition of providing asylum dating from 1920s. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution. According to the U.S. Committee for Refugees, 207 recognized refugees resided in the country. During the year, 9 persons applied for asylum. Three applications were rejected, and six were pending at year's end.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Presidential elections are held every 4 years, with the incumbent barred from reelection. Members of Congress are also elected to 4-year terms. Governors, mayors, and other local officials are elected to 3-year terms. Congressional and presidential elections were held in March and May, respectively. The last elections for local officials took place in October 2000.

On March 10, voters elected a bicameral legislature with a mix of Liberal, Conservative, and independent members. On May 26, voters elected independent Alvaro Uribe President. Both elections were generally free and fair, in spite of a concerted campaign by terrorist organizations such as the FARC to disrupt them. The Liberal and Conservative parties often negotiated with members of smaller, independent parties to form working coalitions. In the House, the Liberal Party held on to 58 seats, while the Conservative Party held 21. The remaining 87 seats were filled by candidates from some 40 different "independent" political movements, some loosely affiliated with the Liberal and Conservative parties. In the Senate, Liberals took 31 seats, Conservatives took 13, indigenous candidates took 2 constitutionally mandated seats, and independents filled the remaining 56 seats.

Political parties generally operated freely without government interference. Parties that fail to garner 50,000 votes in a general election lose the right to present candidates and receive government funds. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board. Suffrage is universal and voluntary for citizens age 18 and over, except for active duty members of the police and armed forces, who are prohibited from voting. Civilian public employees, although eligible to vote, are not allowed to participate in partisan politics.

The congressional and presidential elections, conducted under unprecedented levels of state security, were generally free and fair, despite attempts by paramilitaries and guerrillas to interfere in the political process. However, the National Electoral Commission invalidated 17,000 votes based on evidence of fraud, annulling the victories of five Senators-elect. In areas dominated by paramilitaries, such as the department of Cordoba and urban areas of the Middle Magdalena region, paramilitaries gathered community leaders—sometimes by force—to instruct them on acceptable candidates. However, despite paramilitary boasting that they elected 35 percent of the legislature, election results revealed that candidates reportedly en-

dorsed by paramilitaries consistently lost in regions dominated by these groups. For example, in the city of Barracabermeja, where paramilitary influence was widely acknowledged, all candidates reportedly endorsed by paramilitaries lost the elections by wide margins.

Guerrillas conducted a systematic campaign of violence designed to disrupt and discredit the national elections. The FARC attempted to assassinate Alvaro Uribe when he was a candidate more than 12 times, including a major bomb attack on April 14 in the coastal city of Barranquilla that left 3 dead and 13 injured, including 10 civilians. The FARC threatened to kill civic leaders and residents of towns in which most voters cast their ballots for Uribe, and successfully prevented thousands of peasants in rural areas from going to the polls. Nevertheless, in FARC influenced regions, such as the department of Caqueta, Uribe won by a large margin. In retaliation for Uribe's first round election victory, on June 5 the FARC killed Luis Carlos Caro, the mayor of Solita, a town in Caqueta department that voted overwhelmingly for Uribe. In an attempt to destabilize the country prior to Uribe's inauguration, the FARC extended its threats to all local elected officials throughout the country, resulting in the submission of resignations by 399 mayors nationwide. Another 300 mayors were obligated to carry out their responsibilities by telephone and messenger from relatively secure department capitals. Many city council members and municipal workers also resigned, halting the provision of public services in many municipalities. In total, the FARC killed 9 mayors and 70 city councilmen during the year. On inauguration day, the FARC launched a rocket attack on the presidential palace; however, most of the 15 rockets missed their target and fell in a slum near the palace, killing 23 persons, including 3 children.

The FARC also committed aggressions against threatened mayors' families. In July the FARC killed Omar Castano, the son of Jose Leonel Castano, mayor of the town of Vista Hermosa, Meta department, formerly part of the FARC despeje. Omar Castano had been kidnaped June 28. His body was not returned. The FARC kidnaped several mayors' children to pressure the mayors into resigning. For example, on July 17, members of the FARC kidnaped the 3-year-old daughter of Libardo Herazo, mayor of Colon, Putumayo department. The girl and her nanny were released on July 31, after Herazo publicly announced his resignation.

The AUC initially threatened to retaliate against mayors who resigned in the face of FARC intimidation, but stepped back from this policy in June as announced in a letter to the Colombian Federation of Municipalities.

The FARC kidnaped politicians in an attempt to force the Government into a prisoner exchange. For example, on February 23, the FARC kidnaped independent presidential candidate Ingrid Betancourt (*see* Section 1.b.). Three days earlier, the FARC had kidnaped Senator Jorge Eduardo Gechem (*see* Section 1.b.), Chairman of the Senate Peace Commission, during an airplane hijacking. The FARC continued to hold captive an additional four members of Congress (*see* Section 1.b.).

Both the AUC and the FARC claimed to operate clandestine political movements: the AUC's National and Democratic Movement, launched in September 2001, and the FARC's Bolivarian Movement for a New Colombia, announced in April 2000. The status of these movements was uncertain, although their influence appeared minimal.

In municipalities that lacked a state security presence and in poor urban neighborhoods both guerrillas and paramilitaries sought to impose control and garner political support using measures along a spectrum from social cleansing killings (*see* Sections 1.a., 1.d., and 5) to donations of labor and materiel for community projects.

There are no legal and few practical restrictions on the participation of women and minorities in the political process. In March 2000, a quota law went into effect requiring that a minimum goal of 30 percent of nominated positions be allocated to women. The quota law does not apply to publicly elected positions or managers of parastatal corporations. The Government must report to Congress each year on the percentage of women in high-level governmental positions. The new Uribe administration increased the number of women in significant executive branch posts. There were 8 women in the 18-member cabinet, including the Ministers of Defense and Foreign Relations and the High Commissioner for Plan Colombia. There were also 7 female vice ministers. Women occupied 11 seats in the 102-member Senate and 20 seats in the 161-member House of Representatives. There was 1 woman on the 23-member Supreme Court and another on the 9-member Constitutional Court. Two of the 13 magistrates on the CSJ were women. According to the Government's 2001 end-of-year report, 75 women served as city mayors and 1 as a departmental governor.

Indigenous persons made up less than two percent of the population. There were three indigenous Senators, two of whom occupied seats reserved for indigenous persons, and one indigenous member of the House of Representatives. In 2000 citizens

of the department of Cauca elected the nation's first indigenous governor. There were no indigenous ministers or vice-ministers and no indigenous person served on any of the nation's high courts.

Approximately 21 percent of the population was of Afro-Colombian descent. There were two Afro-Colombian Senators and five Afro-Colombian members of the House of Representatives. However, there was no Afro-Colombian minister or vice minister and no Afro-Colombian on any of the nation's high courts. There were 70 Afro-Colombian mayors. A disproportionate percentage of the country's displaced persons were Afro-Colombians who had difficulty participating in the political process.

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; however, many prominent human rights monitors worked under constant fear for their physical safety. Government officials were generally cooperative and responsive to their views; however, lingering suspicions on both sides sometimes made cooperation difficult. Over 60,000 human rights and civil society NGOs were registered in the country. Most existed only on paper. Approximately 1,000 small to medium-sized NGOs were members of the Colombian Federation of NGOs. The Truth for Colombia ("Verdad Colombia") group was a relatively new association of small, right wing human rights NGOs. The most significant domestic human rights NGOs included: the Colombian Commission of Jurists (CCJ) and Lawyers' Collective Jose Alvear Restrepo, both of which focused on defending human rights through legal analysis and case work; the Jesuit-founded Center for Popular Research and Education (CINEP), which managed the country's largest and most influential database of human rights violations; the Permanent Committee for the Defense of Human Rights (CPDDH), which provided support and assistance to victims of human rights violations and worked to organize civil society to defend human rights and promote a peaceful resolution to the country's armed conflict; the Committee in Solidarity with Political Prisoners (CSPP), which focused on the rights and treatment of persons detained for politically motivated crimes, particularly left-wing subversion; the Association of Families of Detained and Disappeared Persons (ASFADDES), the country's leading voice in demanding justice for the disappeared, many of whom were active in the legitimate left-wing Patriotic Union (UP) political party; the Consultancy for Human Rights and Displacement (CODHES) which advocated policies designed to prevent displacement and defended the rights of the displaced; the Association for Alternative Social Promotion (MINGA), which sought to promote respect for human rights through education, research, lobbying, and legal assistance (MINGA received the French Republic's Liberty, Equality, Fraternity Prize for Human Rights during the year); the Peace Network (Redepaz), a civil society organization dedicated to the promotion of peace at the national, regional, and local level; and the Free Country Foundation, which provided psychological, legal, and public relations assistance to kidnap victims and their families and lobbied the Government for better anti-kidnaping efforts.

On October 23, President Uribe sent various foreign ambassadors a letter in which he promised to guarantee the rights of NGOs to work in the country and argued that his policy to retake the national territory would ensure freedom of speech and human rights in the long term. He stressed that the active participation of civilians was necessary to reestablish public order. Uribe said the judicial powers decreed in the State of Internal Disturbance were needed to tackle impunity and were legitimate, having been upheld by the Constitutional Court. He said he had stressed to the armed forces that they must respect human rights and operate within the norms of international treaties.

Although the Government generally did not interfere with the work of domestic human rights NGOs, there were unconfirmed reports that government security forces harassed or threatened human rights workers, particularly in highly conflictive areas. Vice President Francisco Santos, whose office directs the Presidential Program for the Protection of Human Rights, told the press that NGOs would not be harassed. Prominent local NGOs made an effort to be fair and objective in their analysis of a serious and complex human rights situation. However, their coverage of human rights abuses tended to focus on the Government and right-wing paramilitaries, rather than leftist guerrillas. For example, the Colombian embassy in Canada, noted that only 3 of 5,000 letters generated in 2001 by alerts disseminated by Colombian human rights groups specifically condemned the FARC.

Local human rights NGOs had an influence that far exceeded their membership or resources. By sharing information among themselves and disseminating it to international human rights organizations and the media they raised the country's

human rights profile and contributed to significant levels of international attention. They were also effective at changing laws and policies through lawsuits, such as the CCJ's participation in a successful challenge to the National Defense and Security Act of 2001, or the Free Country Foundation's effective lobbying for stronger, more cohesive government anti-kidnaping efforts. Representatives of a wide variety of government agencies found it useful or politically necessary to meet with local human rights groups and study their proposals.

The Government has occasionally filed criminal charges against human rights advocates, generally for subversive activities. For example, on December 6, CTI agents in Bucaramanga, Santander department, arrested Julio Avella and Alvaro Tapias, President and Treasurer, respectively, of the National Association of Solidarity Assistance (ANDAS), an NGO arm of the Colombian Communist Party, for allegedly providing financial assistance to the FARC. Arrest warrants were still outstanding for Carlos Mejia and Gladys Rojas, former directors of a small NGO in Barrancabermeja that in August 2001 organized a major international human rights event. Mejia and Rojas, who remained in hiding, were charged with rebellion for acts prior to their NGO organizing activities. Government officials sometimes have accused human rights NGOs of being guerrilla front organizations without providing evidence to back up their charges.

Under the authority granted by the President's declaration of a State of Internal Disturbance, law enforcement authorities searched the offices of a number of NGOs. Most searches focused on the headquarters of small, local NGOs; however, on October 25, police raided and searched the Bogota office of the Permanent Assembly for Peace, a large, well-regarded NGO umbrella organization. Justifying the search by reference to emergency powers granted under the State of Internal Disturbance, police officials failed to secure a prosecutor's written approval before entering the building. The raid, which was widely condemned in the country and abroad, uncovered no evidence of illegal activity.

In December the Fiscalia, finding that there was insufficient evidence to bring formal charges, closed its investigation into accusations that retired army Generals Fernando Millan and Rito Alejo Del Rio bribed a witness to testify falsely against two leading NGO organizers and a labor leader (*see* Section 1.a.).

The Fiscalia continued to investigate the illegal wiretapping of NGO and labor unions offices by the Medellin GAULA (*see* Section 1.f.).

Paramilitaries subjected human rights groups to intense pressure in the form of obvious surveillance, harassing telephone calls, graffiti campaigns, and death threats.

For example, in August the "Cacique Calarca" bloc of the AUC, which operated in the country's coffee belt, circulated a statement in the departments of Quindio and Risaralda that accused 13 human rights and labor leaders by name of being guerrilla agents. In addition, the statement declared the 13 persons military targets and gave them 15 days to leave the region. On September 15, Augustin Jimenez of the CSPP received an anonymous call that told him that a coworker had been killed and that he would be next. The AUC repeatedly and explicitly threatened the CSPP.

Paramilitaries were implicated in the deaths of human rights and development workers. For example, on November 8, Jose Rusbell, a member of the Joel Sierra Human Rights Committee, was killed by presumed paramilitaries in the city of Tame, Arauca department. The IACHR specifically condemned Rusbell's killing and asked the Government to undertake an exhaustive investigation. According to the CCJ, 17 human rights advocates were killed during the year, although only two such deaths could be definitively attributed to paramilitaries.

An investigation continued into the August 2000 killing of peace activist and former mayor Luis Fernando Rincon in Aguachica, Cesar department. Human rights groups publicly accused alleged paramilitary leader Libardo Humberto Prada of the crime. On January 16, the criminal chamber of the Valledupar Supreme Court overturned a 2001 trial court ruling exonerating Prada for the 1998 killing of local Redepaz coordinator Amparo Leonor Jimenez, and sentenced him to 37 years in prison.

There was no information on the whereabouts of Angel Quintero and Claudia Patricia Monsalve, members of ASFADDES who were kidnaped in 2000 by presumed paramilitaries. Authorities continued to investigate the kidnaping, although the victims were presumed dead.

Prosecutors issued arrest warrants for AUC leader Carlos Castano and suspected paramilitary Yesid Fernando Lemus for the 1999 kidnapings and murders of southern Bolivar department peasant leaders Edgar Quiroga and Gildardo Fuentes.

Arrest warrants remained outstanding for Carlos Castano and four other paramilitaries for the 1997 murders of two CINEP workers (*see* Section 1.a.). Imminent arrests appeared unlikely.

The Government, through the Ministry of the Interior and the DAS, allocated approximately \$11.4 million (28.5 billion pesos) to its program for the protection of human rights and labor activists associated with 88 different human rights NGOs and unions. As of August 30, the Ministry, bolstered by a budget increase of 690 percent over 2000, had provided protection measures to 890 human rights activists and bulletproofed 54 NGO offices and residences. Nevertheless, legitimate requests for protection far outpaced the increase in the protection program's budget. Human rights groups continued to state that the protection programs were inadequate to address the crisis, and called for increased efforts to combat impunity.

The Government generally did not interfere with the work of international human rights and humanitarian NGOs. Representatives of international human rights groups visited the country and held meetings with local human rights groups and individuals in various regions of the country without government interference. The larger international NGOs, such as AI, HRW, and the Washington Office on Latin America (WOLA), devoted equal attention to government forces, guerrillas, and paramilitaries; however, they held the Government to a higher standard and criticized it not only for direct violations of human rights, but also for its failure to completely sever links between the military and paramilitaries and prevent high levels of political violence.

The Government deported several representatives of smaller international human rights groups for violations of immigration law. For example, in August and October, the DAS ordered five members of Christian Peacemaker Teams, a small group that provided humanitarian accompaniment in the highly conflicted Middle Magdalena region, to depart the country for carrying out activities inconsistent with their tourist visa status. On September 17, the DAS ordered one Spanish citizen to depart the country and formally deported two others for allegedly inciting peasants to participate in a national labor strike (*see* Section 2.b.).

The Government cooperated with international governmental organizations. The UNHCR, the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations High Commission for Human Rights (UNHCHR), and the ICRC had an active presence in the country and were allowed to carry out their work without government interference.

UNHCHR's Bogota office opened at government invitation in 1997; it has since added field offices in Cali and Medellin. The office monitored and analyzed the national human rights situation and provided advice and assistance on human rights protection. President Uribe extended UNHCHR's mandate in the country through the end of his administration in 2006.

The Government has an extensive human rights apparatus coordinated by the Office of the President's Advisor for Human Rights. The Office conducted regular dialog with local human rights groups and established a Special "Momentum" Committee to advance judicial resolutions of 100 key human rights cases. Executive branch offices specializing in promoting and protecting human rights include the human rights office of the Ministry of Interior and the human rights offices of the Ministry of Defense and its constituent services, including the National Police.

The MOD reported that over 290,000 members of the security forces had received human rights training since 1996, conducted by the ICRC, the Colombian Red Cross, the Roman Catholic Church, foreign governments, and other government offices and agencies. In September 2001, the MOD signed an agreement with two national universities and the Inter-American Institute of Human Rights to conduct research and training on human rights issues and to organize seminars designed to foster dialog with NGOs and academics.

Offices of independent government agencies that protect and promote human rights include the Procuraduria's Disciplinary Delegate for the Defense of Human Rights, the Human Rights Unit of the Fiscalia, and the Office of the National Human Rights Ombudsman. The House of Representatives elects the National Human Rights Ombudsman for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. The Ombudsman's 34 regional offices provided public defenders to the indigent and a channel for complaints of human rights violations (*see* Section 1.e.). The Ombudsman's Bogota office served as the headquarters of a national Early Warning System designed to alert public security forces to impending human rights violations, particularly large-scale massacres. The Ombudsman's office was an important party to the lawsuit that successfully challenged the National Defense and Security Act of 2001 that was ruled unconstitutional in April. In August 2000, the House of Representatives confirmed former Constitutional Court Jus-

tice Eduardo Cifuentes as Human Rights Ombudsman. Cifuentes was active in his role, publicly criticizing a wide variety of human rights violations, visiting massacre sites, and pressing for increased security and humanitarian assistance for affected communities. His office, with international assistance, provided training for its regional ombudsmen and conducted public education on human rights. Despite the Ombudsman's successes, resource constraints meant the office was generally underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

As of October 31, the Human Rights Ombudsman's office had processed 6,781 complaints of violations of human rights and international humanitarian law, of which 3,747 involved forced displacements, 1,743 involved threats, 411 involved unlawful killings, and 191 involved kidnappings.

Illegal armed groups sometimes targeted regional human rights ombudsmen. Four paramilitaries were on trial for the January 2001 murder of regional human rights ombudsman Ivan Villamizar in Cucuta, Norte de Santander department (*see* Section 1.a). The Fiscalía was investigating the FARC's July 2000 kidnaping and killing of Jose Manuel Bello, municipal human rights ombudsman in Vigia del Fuerte, in the Atrato region of western Antioquia department. The office also was investigating the July 2000 killing of Yemil Fernando Hurtado, human rights ombudsman in Narino municipality in southeastern Antioquia.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution specifically prohibits discrimination based on race, sex, disability, language, or social status; however, in practice, many of these provisions were not enforced. The killing of homosexuals as part of so-called social cleansing campaigns, particularly by paramilitaries, was a problem (*see* Section 1.a.).

Women.—Rape and other acts of violence against women were pervasive in society, and like other crimes, seldom were prosecuted successfully. According to the Ombudsman's 2001 report, intrafamilial violence, sexual assault, and the killing of women were increasing problems. The ICBF and the Presidential Adviser's Office for Youth, Women, and Family Affairs continued to report high levels of spousal and partner abuse throughout the country. The Institute for Forensic Medicine reported 28,738 cases of spousal abuse for the year. There were 6,519 cases of domestic violence against women by other family members. The Institute reported 10,062 cases of suspected sex crimes, including rape. The Institute commented that the crimes of domestic violence and rape were greatly underreported, citing its 1995 survey that indicated that as few as 5 percent of these crimes were reported, and that only 2 percent of victims received a medical evaluation. The ICBF conducted programs and provided refuge and counseling for victims of spousal abuse; however, the level and amount of these services were dwarfed by the magnitude of the problem. For example, each of the ICBF's 527 family ombudsmen handled approximately 1,230 cases per year.

The 1996 Law on Family Violence criminalized violent acts committed within families, including spousal rape. The law also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial authority to remove the abuser from the household. It allows a judge to oblige an abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders issued by the courts.

A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The June 2000 reforms to the Penal Code reduced the maximum sentence for violent sexual assault from 20 to 15 years; the minimum sentence is 8 years. The ICBF's "Make Peace" program provided support to women and children who were victims of domestic violence. Under the auspices of the same program, the Human Rights Ombudsman's office conducted regional training workshops in various cities to promote application of domestic violence statutes.

Women faced an increased threat of sexual assault in the context of the internal conflict (*see* Section 1.g.). The UNHCHR, CODHES, and the Human Rights Ombudsman all noted that internally displaced women and girls were particularly vulnerable to domestic violence, sexual abuse, and sexual exploitation (*see* Section 2.d.). In August 2001, the Colombian Pro-Family Institute published a study of sexual health and reproduction in displaced women and adolescents that found that 20 percent of displaced women had been raped and that 30 percent of displaced teenage girls had children or were pregnant. International organizations and NGOs noted that sexual violence was largely unreported and that no long-term assistance was

available to female IDPs. In addition, they criticized the use of female combatants in guerrilla organizations as sex slaves. Former female guerrillas also reported forced abortions and forced implantation of intrauterine devices (*see* Section 1.g.).

Prostitution, which is legal in designated "tolerance zones," was widespread and remained a serious problem exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, particularly in coastal cities such as Cartagena and Barranquilla. It was likely that some marriage and dating services were covers for sexual tourism.

Trafficking in women for sexual exploitation continued to be a problem (*see* Section 6.f.).

The law prohibits sexual harassment; however, it was a pervasive problem.

The Constitution prohibits discrimination against women, and specifically requires that authorities ensure "adequate and effective participation by women at decision making levels of public administration." However, discrimination against women persisted. A 2000 study by the University of Rosario concluded that women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that were generally incompatible with their education and experience. Government unemployment statistics indicated that the unemployment rate for women was 20.5 percent, 6 points higher than the rate for men. According to the U.N., women earned an average of 28 percent less than men during 2001. Female workers in rural areas were most affected by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. According to a 1997 Constitutional Court decision, pregnant women and mothers of newborn children less than 3 months of age may not be fired from their jobs without "just cause." The court ruled that bearing children was not just cause. There were no published reports of such firings during the year.

Children.—Constitutional and legislative commitments to the protection of children's rights were implemented only to a minimal degree. The Constitution imposes an obligation on the family, society, and the state to protect children, foster their development, and ensure the full exercise of their rights. The Children's Code describes these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens regarding the code as well as the 1996 and 1997 laws on family violence, which increased legal protection for women and children. The ICBF oversees all government child protection and welfare programs and also funds nongovernmental programs that benefit children. Despite these legal protections and programs, government commitments to the protection of children's rights were not fully implemented.

The Constitution provides for free public education, which is compulsory between the ages of 6 and 15; however, a study by the National Department of Statistics (DANE) estimated 14 percent of children ages 5 to 17 did not attend school because of lax enforcement of truancy laws, inadequate classroom space, and economic pressures for children to provide additional family income. Although the Government covered the basic costs of primary education, many families faced additional expenses such as matriculation fees, books, school supplies, and transportation costs, which were significant in rural areas where many children lived far from school. These costs were often prohibitive, particularly for the rural poor.

The law requires the Government to provide medical care for children. However, medical facilities were not universally available, particularly in rural areas.

Child abuse was a serious problem. The National Institute for Forensic Medicine reported 8,125 cases of child abuse during the year. According to the Association Against Child Abuse, only 5 percent of child sex abuse cases were reported. Based on figures from the Government's Institute for Legal Medicine, which reported 11,000 cases of child sexual abuse during the year, the Association estimated that at least 220,000 children were sexually abused during the year.

According to UNICEF, an estimated 35,000 adolescents worked as prostitutes, in spite of legislation prohibiting sex with minors or the employment of minors for prostitution.

Children were trafficked for sexual exploitation (*see* Section 6.f.).

In conflict zones, children often were caught in the crossfire between public security forces, paramilitaries, and guerrillas. For example, on June 16, a crossfire between paramilitaries and a mixed contingent of FARC and ELN fighters killed a 9-year-old boy outside his home near the rural village of Aguas Lindas, southern Bolivar department. Landmines and abandoned munitions killed and maimed scores of children. According to the Presidential Program for Human Rights, landmines injured at least 20 children during the year. For example, on June 9, a 15-year-old

boy was killed after stepping on a landmine outside the town of Cajibío, Cauca department. On September 19, three children in a lower class section of Bogotá were killed when the fragmentation grenade with which they were playing exploded. The grenade apparently had been discarded by members of a FARC urban militia that operated in the neighborhood.

Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. According to UNICEF, over 1 million children have been displaced from their homes over the past decade (*see* Section 2.d.). The Human Rights Ombudsman's office estimated that only 15 percent of displaced children attended school. Displaced children were particularly vulnerable to mistreatment, sexual exploitation, and recruitment by criminals.

Since 1999, persons under the age of 18 are not allowed to serve in the public security forces. However, both paramilitaries and guerrillas employed child soldiers. The ICBF estimated that 12,000 to 15,000 children were members of illegal armed groups. Sixty percent of these children were members of the FARC. The Roman Catholic Church stated that the FARC used its freedom of action in its former *despeje*, or safe haven, to lure or force hundreds of children into its ranks. Thousands of families from FARC-prevalent zones throughout the country chose to be displaced rather than risk the forcible recruitment of their children. For example, many former-displaced residents of Bojaya, Chocó department chose to leave their teenage children in Quibdó, the departmental capital, to avoid their forced recruitment by the FARC. The FARC was believed responsible for the January 11 killing in Caldas department of a Roman Catholic priest who had complained to authorities in the departmental capital of Manizales about FARC recruitment at a local high school. On August 2, the Fiscalía filed charges against senior FARC leaders for the recruitment of minors. As a good will gesture in anticipation of possible peace negotiations with the Government (*see* section 1.g.), in December paramilitaries from the Central Bolívar Bloc, formerly members of the AUC, handed over 19 child soldiers to representatives of the ICBF and the Colombian Red Cross.

Although many minors were forcibly recruited, a UNICEF study found that 83 percent of child soldiers volunteered. Limited educational and economic opportunities and a desire for acceptance and camaraderie increased the appeal of service in armed groups. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the MOD reported an increase in the number of minors deserting illegal armed groups. As of July, at least 230 children had surrendered to state security forces during the year. FARC child deserters reported that local guerrilla commanders threatened to kill their families should they desert or attempt to do so. A reinsertion program for former child soldiers administered by the ICBF provided assistance to 332 children during the year.

Children were among the preferred kidnaping targets of guerrillas (*see* Section 1.b.). The Free Country Foundation reported 384 kidnapings of children during the year (*see* Section 1.b.).

Persons with Disabilities.—The Constitution enumerates the fundamental social, economic, and cultural rights of persons with physical disabilities. However, serious practical impediments prevented the full participation of these persons in society. No legislation mandates that buildings provide special access for persons with disabilities. Consequently, the disabled could not access most public buildings and transportation systems; however, the Constitutional Court ruled that persons with physical disabilities must have access to voting stations and receive assistance if they so request. The Court also ruled that the social security fund for public employees cannot refuse to provide services for children with disabilities, regardless of the cost involved.

Indigenous Persons.—There are 82 distinct ethnic groups among the country's 716,400 indigenous inhabitants, who constitute approximately 2 percent of the population. Indigenous communities are concentrated in the Colombian Massif of the Andes Mountains, in southern Cauca department, along the lowlands of the Pacific Coast, on the Guajira peninsula, and in the Amazon region. According to the National Organization of Colombia's Indigenous (ONIC), 93 percent of indigenous persons live in rural areas, and approximately 115,000 indigenous persons are without land.

The Constitution gives special recognition to the fundamental rights of indigenous persons. The Ministry of Interior, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous persons. Ministry representatives were located in all regions of the country with indigenous populations and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indige-

nous rights. Despite legal protections, indigenous persons continued to suffer discrimination and were often relegated to the margins of society. UNHCHR's March 2001 report noted that an estimated 80 percent of the indigenous population lived in conditions of extreme poverty. In addition, indigenous communities suffered disproportionately from the internal armed conflict (*see* Section 1.g.). Members of indigenous communities often fled together in mass displacements to relocate to other indigenous communities (*see* Section 2.d.).

By law, indigenous groups have perpetual rights to their ancestral lands. According to the National Agrarian Reform Institute (INCORA), 28 percent of the national territory has been legally recognized as indigenous land, and approximately 80 percent of these lands have been demarcated. The Institute was involved in a program to buy back lands declared to belong to indigenous communities. Approximately 200 indigenous communities had no legal title to lands that they claimed. Armed groups often violently contested indigenous land ownership. Traditional Indian authority boards operated approximately 545 reservations as municipal entities, with officials selected according to indigenous traditions. The boards controlled reservation finances and were subject to fiscal oversight by the national Comptroller General. Sixty percent of the indigenous population lived on these designated reservations.

In July Occidental Petroleum turned over oil exploration rights to areas near the U'wa reservation in Arauca department to national parastatal corporation Ecopetrol. Although the U'wa tribe had strenuously opposed exploration near its reservation, the courts consistently overruled U'wa legal efforts to prevent it. Occidental's decision was economic, but Ecopetrol stated that it planned to continue exploration in the area. In December the U'wa stated that they would not oppose exploration by Ecopetrol.

The Constitution provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (*see* Section 1.e.). However, these jurisdictions were subject to manipulation and often rendered punishments that were much more lenient than those imposed by regular civilian courts.

The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

Members of indigenous communities continued to be victims of all sides in the internal conflict. According to the MOD, 73 indigenous persons were killed during the year as a result of the internal armed conflict, 29 in massacres. The UNHCHR strongly criticized both paramilitary and FARC threats against indigenous communities and characterized government investigations of human rights violations against indigenous groups as insufficient. ONIC reported widespread cases in which members of indigenous communities, particularly in Putumayo, were forbidden to leave their communities without either paramilitary or guerrilla permission, in which paramilitaries or guerrillas blockaded communities, or in which indigenous persons returning from urban areas were accused by guerrillas of being paramilitary collaborators.

Paramilitaries and guerrillas forced indigenous persons, including children, into their ranks (*see* Section 1.f.).

Paramilitaries killed indigenous persons (*see* Section 1.a.). For example, in June, the Cauca Regional Indigenous Council condemned the paramilitary killings of 10 indigenous persons near the towns of Corinto and Pradera, northern Cauca department, and Florida, southern Valle del Cauca department. In August paramilitaries ordered the killing of three indigenous leaders near La Hormiga, Putumayo department.

Guerrillas also killed indigenous persons. For example, on July 27, the FARC killed Embera leader Bertulfo Domico in the town of Dabeiba, western Antioquia department. Domico was apparently killed for leaving the city without the local FARC commander's permission. On October 4, FARC guerrillas killed Embera Katio tribe member Adolfo Cundama in front of his family on a designated indigenous reservation near Tierralta municipality, Cordoba department. The FARC accused Cundama of collaborating with paramilitaries.

National/Racial/Ethnic Minorities.—According to the National Planning Department, the country had approximately 10.6 million citizens of African heritage. The departments with the largest number of Afro-Colombians were Valle, Antioquia, Bolivar, Atlantico, Magdalena, and Cordoba. However, the department of Choco had the highest percentage of Afro-Colombian residents, at 85 percent. Although estimates vary, government figures indicated that Afro-Colombians represented approximately 21 percent of total population.

Afro-Colombians are entitled to all constitutional rights and protections; however, they faced significant societal discrimination. Afro-Colombian organizations reported that Afro-Colombians had almost no representation in the executive branch, judicial

branch, civil service positions, or in military hierarchies (see Section 3). The March 2001 report of the UNHCHR noted that an estimated 80 percent of Afro-Colombians lived in conditions of extreme poverty, that 74 percent received wages below the legal minimum, and that their municipalities had the highest rates of poverty. Choco had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. Although a special law designed to benefit Afro-Colombians was passed in 1993, little concrete progress had been made on the law's commitments to expand public services and private investment in Choco and other predominantly Afro-Colombian regions along the country's coastline.

Choco was also the scene of some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors. All 119 civilians killed in a FARC cylinder bomb attack on the town of Bojaya, in Choco, were Afro-Colombians (see Section 1.g.).

A 1993 law authorizes Afro-Colombian communities to receive collective titles to some Pacific coastal regions. Afro-Colombian leaders complained that the Government was slow to issue land titles, and that access to such lands was often inhibited by the presence of paramilitaries or guerrillas. Afro-Colombians were disproportionately represented among the nation's IDPs.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right to organize unions, except for members of the armed forces, police, and persons executing “essential public services” as defined by law. In practice, violence against union members and antiunion discrimination were obstacles to joining unions and engaging in trade union activities. Labor leaders around the country continued to be targets of attacks by paramilitary groups, guerrillas, and narcotics traffickers. Union leaders contended that perpetrators of violence against workers operated with virtual impunity.

The heavily amended 1948 Labor Code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a simple registration process. However, the ILO has received reports that this process is slow and sometimes takes years. The law penalizes interference with freedom of association and allows unions to determine freely their internal rules, elect officials, and manage activities. The law also forbids the dissolution of trade unions by administrative fiat. Law 584 limits government interference in a union's right to free association. However, the law includes a provision authorizing Ministry of Labor officials to compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers this amendment to be inconsistent with freedom of association, since it believes an administrative authority only should conduct investigations when there are reasonable grounds to believe that an offense has been committed.

Labor leaders nationwide continued to be attacked by paramilitaries, guerrillas, and narcotics traffickers. According to the National Labor College (ENS), a Medellin-based NGO that collects, studies, and consolidates information on organized labor, 178 labor activists were killed during the year and 1,875 since 1991. The ENS attributed a majority of these crimes to paramilitaries. Paramilitaries were particularly aggressive in targeting members of the United Workers Central (CUT), the country's largest and most left-leaning labor federation. For example, authorities suspected paramilitaries of killing Hernan de Jesus Ortiz and Jose Pineda in the municipality of Aranzazu, Caldas department on April 12. Ortiz, a local teacher's union (FECODE) leader, was also a member of the CUT's national board and an active participant in its human rights office, which regularly condemned paramilitary abuses. Pineda was a member of the CUT-affiliated Colombian Electricity Workers Union (SINTRAEELECOL). Paramilitaries also continued their attacks on members of the Oil Workers Trade Union (USO), which they accused of ties to the ELN. For example, paramilitaries were suspected of the June 17 killing of USO national board member Cesar Blanco in Bucaramanga. In June AI testified to the ILO that paramilitaries also targeted public sector unions, particularly health workers.

The Fiscalia continued investigating crimes perpetrated against union leaders in previous years for which paramilitaries were believed responsible. For example, investigations continued into the killings of labor activists Valmore Locarno, Victor Hugo Orcasita, Gustavo Soler, Ricardo Orozco, and Oscar Dario Soto. On the whole, government identification of perpetrators of crimes against trade union members was slow, a situation which the ILO Special Representative's June report noted was aggravated by the difficulties faced by the Procuraduria and the Fiscalia in carrying out their inquiries and offering adequate assurances of protection so that witnesses

would be willing to come forward. Of the 116 killings of labor union members documented as of September, there were no arrests, prosecutions, or convictions at year's end. The Human Rights Unit of the Fiscalía reported that from August 1986 to April, there were 376 criminal investigations into violations of the right to life of unionists. Of these, 321 were in the preliminary stage, 24 were at the investigative stage, 3 were at the trial state, 7 had been sent to military criminal courts, and 13 were awaiting assignment. Guilty verdicts were issued in only five cases.

Progress was made in several high profile investigations. For example, on December 17, a specialized criminal court in Bogota sentenced former army Captain Jorge Rojas and former army Sergeant Evangelista Basto to 18 years in prison for the attempted killing of public employee union (FENALTRASE) president Wilson Borja in December 2000. Rojas and Basto had been in active service when the crime occurred, but were dismissed from the military during the course of the criminal investigation. The court also convicted army Corporal Jhon Fredy Pena of conspiracy and sentenced him to 42 months in prison. On November 19, the Fiscalía reconfirmed its August 16 decision to permanently close its investigation into the alleged involvement in the crime of Police Lieutenant Carlos Fredy Gomez. A separate trial continued of army Major Cesar Alonso Maldonado and civilian Regulo Rueda for their alleged involvement in the plot to murder Borja. On July 31, the DAS arrested AUC leader Sergio Manuel Cordoba, a suspect in the 2001 killing of USO leader Aury Sara. On September 21, the army arrested AUC leader Didimo Rodriguez, wanted for the October 2001 killing of labor leader Luis Manuel Anaya. On October 19, prosecutors indicted Edgar Armando Daza for alleged involvement in the 1998 murder of CUT Vice President Jorge Luis Ortega. On May 4, a Bogota judge sentenced Rafael Cespedes to 27 years in prison for Ortega's murder. Prosecutors also indicted a paramilitary suspect for the 2001 murder of labor leader Jose Luis Guete.

In its evaluation of antiunion violence, the ENS also noted a significant increase in crimes against union activists committed by guerrillas. For example, on April 26, the FARC massacred nine members of the Agricultural Workers Union (SINTRIANAGRO) near Apartado, in the Uraba region of Antioquia department. Uraba was hotly contested between guerrillas and paramilitaries. The ENS attributed the deaths of at least 19 union activists to the FARC.

In addition to the many union activists who were killed, the ENS also reported that 17 union members survived attempts on their lives, 189 were threatened with death, 26 were kidnaped, and 8 disappeared.

The most prominent release of a kidnaped union leader occurred on April 7, when the AUC freed USO leader Gilberto Torres after 40 days in captivity.

In an attempt to ameliorate the security risks confronting union leaders, the Government significantly increased the resources it devoted to the Program for the Protection of Human Rights Defenders and Trade Union Leaders. Between 2000 and the year the Program's budget increased nearly 700 percent, to nearly \$11.5 million (28.5 billion pesos). However, the UNHCHR has expressed concern over delays in transferring and making available funds allocated to the program, affecting the timely and effective implementation of security measures. As of August, the program had assisted 1,195 union leaders and activists, who, depending on a threat evaluation, received bulletproof vests, bodyguards, and, in some cases, vehicles. Trade unionists and human rights groups criticized the protection program because these increased measures were insufficient to protect adequately the large number of trade unionists who were threatened. For example, in March 2001 Valmore Locarno and Victor Orcasita, employees of Drummond Coal Company and local president and vice-president of mine workers union SINTRAMIENERGETICA, were killed by presumed paramilitaries after having been assessed as "medium to low" risk. Six months later the new president of the same union, Gustavo Soler, also was killed.

At the November ILO Governing Body meeting, the ILO's Committee on Freedom of Association reported that measures adopted by the Government had been insufficient to reduce the violence directed against trade union officials. The Government had not reported any convictions of individuals for the killing of trade unionists. The ILO Governing Body decided by consensus to postpone to its March 2003 meeting any consideration of appointing a "Fact-Finding and Conciliation Commission." The workers proposed a Commission of Inquiry in 1998, and that proposal was pending.

The law forbids antiunion discrimination and the obstruction of free association. However, according to union leaders, both discrimination and obstruction of free association occurred frequently. There were only 271 government labor inspectors to cover 1,098 municipalities and more than 300,000 companies. The inspection apparatus was therefore weak. Furthermore, labor inspectors often lacked basic equipment, including vehicles. Guerrillas sometimes deterred labor inspectors from performing their duties by declaring them military targets. In some cases,

paramilitaries threatened and killed union members who failed to renounce collective bargaining agreements.

The Labor Code calls for fines to be levied for restricting freedom of association.

Unions are free to join international confederations without government restrictions and did so in practice.

b. The Right to Organize and Bargain Collectively.—The Constitution protects the rights of workers to organize and engage in collective bargaining. Workers in large firms and public services have been most successful in organizing, but these employees represented only a small percentage of the workforce. High unemployment, a large informal economic sector, traditional antiunion attitudes, and weak union organization and leadership limited workers' bargaining power in all sectors. A requirement that trade unions must represent a majority of workers in each company as a condition for representing them in sectoral agreements also weakened workers' bargaining power.

According to the ENS, there were 2,482 registered unions, with a total of 860,281 members. The number of unions and union members continued to decline during the year, as it had in previous years. Approximately 5 percent of the labor force was unionized. The CUT encouraged unions to merge along industry lines to increase their efficiency and bargaining power.

The number of workers covered by collective bargaining agreements has been gradually declining. According to the ENS, 223,670 workers were employed under collective bargaining agreements during the period 2000–2001, compared with 409,918 during the period 1994–95.

Collective pacts between individual workers and their employers are not subject to collective bargaining and typically were used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code eliminated mandatory mediation in private labor-management disputes and extended the grace period before the Government can intervene in a conflict. Federations may assist affiliate unions in collective bargaining.

The Constitution provides for the right to strike, except for members of the Armed Forces, Police, and persons executing essential public services as defined by law.

Before staging a legal strike, unions must first negotiate directly with management and, if no agreement results, accept mediation. The Labor Code prohibits the use of strikebreakers. Legislation that prohibits public employees from striking is still in effect, although it often is overlooked. By law public employees must accept binding arbitration if mediation fails; however, in practice public service unions decide by membership vote whether or not to seek arbitration.

The ILO had a number of long-standing criticisms of the Labor Code: the requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that candidates for trade union offices must belong to the occupation that their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Ministry of Labor and the President to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

On September 16, the three main labor federations called a national work stoppage to protest the Government's proposed labor and pension reforms. In March USO conducted a strike to protest the killing of one USO member and the kidnapping of Gilberto Torres. In May and June, 7,000 employees at Telecom, the leading telecommunications company, went on strike over wage levels and work rules.

Labor law applies in the country's 15 free trade zones (FTZs), and its standards are enforced.

c. Prohibition of Forced or Bonded Labor.—The Constitution forbids slavery and any form of forced or bonded labor, and there were no reports of such practices in the formal sector.

Paramilitaries and guerrillas practiced forced conscription (*see* Section 5). There were some reports that guerrillas used forced labor.

The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (*see* Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (*see* Sections 1.f. and 5), to work as prostitutes (*see* Section 5), or as coca pickers.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14 in most jobs, and the Labor Code prohibits the granting of work permits to children under 18; however, child labor remained a significant problem, particularly in the informal sector. According to the National Department of Statistics (DANE), nearly 15 percent of children were employed, over half of whom received no remuneration. DANE reported that only 1 percent of child workers received the minimum wage.

A 1989 decree established the Minors Code and prohibited the employment of children under age 12. It also required exceptional conditions and the express authorization of the Labor Ministry to employ children between the ages of 12 and 17. Children under age 14 are prohibited from working, with the exception that those ages 12 and 13 may perform light work with the permission of their parents and appropriate labor authorities. Children ages 12 and 13 may work a maximum of 4 hours a day, children ages 14 and 15 may work a maximum of 6 hours a day, and children ages 16 and 17 may work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Children are prohibited from working in a number of specific occupations, including mining and construction; however, these requirements largely were ignored in practice, and only 5 percent of working children possessed the required work permits. By allowing children ages 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years. In addition, the legal minimum employment age of 14 was inconsistent with completing a basic education.

In the formal sector, the Ministry of Labor enforced child labor laws through periodic inspections. However, in the informal labor sector and rural areas, child labor continued to be a problem, particularly in agriculture and mining. Children as young as 11 worked full time in almost every aspect of the cut flower industry. Even children enrolled in school or, in some cases, those too young for school, accompanied their parents to work at flower plantations at night and on weekends. In 2001 the ILO reported that children were employed in gold and emerald mining. However, in the mining sector, coal mining presented the most difficult child labor problem. Many marginal, usually family-run, mining operations employed young children as a way to boost production and income. It is estimated that between 1,200 and 2,000 children were involved. The work was dangerous and the hours were long. Younger children carried water and packaged coal, while those ages 14 and up engaged in more physically demanding labor such as carrying bags of coal. These informal mining operations were illegal. The Ministry of Labor reported that by the end of 1999 an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school.

A Catholic Church study conducted in 1999 reported that approximately 2.7 million children worked, including approximately 700,000 children who worked as coca pickers. Observers noted that the economic downturn might increase the number of children working, particularly in rural areas. Child participation in agricultural work soared at harvest time. All child workers must receive the national minimum wage for the hours that they work. However, according to the Ministry of Labor, working children between the ages of 7 and 15 earned between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children had regular access to health care; the health services of the social security system cover only 10 percent of child laborers. Approximately 25 percent were employed in potentially dangerous activities. School attendance by working children was significantly lower than for nonworking children, particularly in rural areas.

The Labor Ministry had an inspector in each of the country's 32 departments and the national capital district, responsible for certifying and conducting repeat inspections of workplaces that employed children; however, the system lacked resources and covered only 20 percent of the child labor force employed in the formal sector of the economy. The Labor Ministry was designing an oversight and inspection model to be implemented in early 2003. Under its Action Plan to Eradicate Child Labor, the Government allocated \$2 million (5.9 billion pesos) to the National Committee for the Eradication of Child Labor, which includes representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGOs.

The Minors Code provides for fines ranging from 1 to 40 minimum monthly salaries for violations. If a violation is deemed to have endangered a child's life or threatened a child's moral values, sanctions can also include the temporary or permanent closure of the establishment in question.

The National Committee for the Eradication of Child Labor has conducted training on legislation and enforcement for approximately 600 public officials in the departments of Antioquia, Bolivar, Cauca, Cordoba, Cundinamarca, Santander, and Valle del Cauca. The Committee also created an information system on child labor to measure and understand the problem better. The Government, the main labor federations, and media representatives published articles, broadcasted documentaries, and launched various programs to delegitimize child labor.

The Ministry of Education expanded the school day in 134 municipalities to prevent children from dropping out and entering the labor force. In 2001 UNICEF launched a program to withdraw children from the labor force and return them to school. Over 200 children in Santander de Quilichao, Cauca department, 140 children in Medellin, capital of Antioquia department, and 350 children in Armenia, capital of Quindio department, benefited from this program.

The legal definitions of “worst forms of child labor” and “hazardous work” are consistent with ILO convention 182 and do not exempt specific sectors.

The law prohibits forced and bonded labor by children; however, the Government was unable to enforce this prohibition effectively. Paramilitaries and guerrillas abducted children for use as combatants (*see* Section 5).

e. Acceptable Conditions of Work.—The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government, was about \$114 (309,000 pesos). The national minimum wage did not provide a decent standard of living for a worker and family.

Because the minimum wage is based on the Government’s target inflation rate, the minimum wage has not kept up with real inflation in the past several years. An estimated 70 percent of all workers earned wages that were insufficient to cover the costs of the Government’s estimated low-income family shopping basket. An estimated 76 percent of all workers earned no more than twice the minimum wage.

On December 20, Congress approved President Uribe’s proposed labor reform bill. The bill lengthened the regular working day by 4 hours and reduced the amount of overtime pay. It also gave employers more flexibility in devising work schedules. The “indemnity” paid to workers who are unjustly fired will be reduced. However, for the first time unemployed workers can receive an unemployment benefit for 6 months. Under the new system, apprentices no longer will be considered employees, but they will be able to contribute to the social security fund. The bill also establishes several subsidies for employers who create new jobs.

Legislation provides comprehensive protection for workers’ occupational safety and health; however, these standards were poorly enforced, in part because of the small number of Labor Ministry inspectors. In general a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry resulted in a high level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lacked safety plans. The Social Security Institute reported over 56,000 work-related accidents during the year, resulting in 356 deaths. The industries most prone to worker accidents were mining, construction, and transportation. According to insurance company association FASECOLDA, approximately 12 million persons—many of them children—had no insurance against work-related injuries.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers, particularly those in the agricultural sector, feared losing their jobs if they exercised their right to criticize abuses.

f. Trafficking in Persons.—The Criminal Code defines trafficking in persons as a crime; however, trafficking in persons, primarily women and girls, remained a problem.

Law 747, passed in a special session of Congress in June, broadened the definition of trafficking in persons and provided for prison sentences of between 10 and 15 years and fines of up to 1,000 times the monthly minimum wage. These penalties, which are even more severe than those for rape (*see* Section 5), can be increased by up to one-third if there are aggravating circumstances, such as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. Police actively investigated trafficking offenses and some traffickers were prosecuted. However, inadequate resources for witness protection hindered prosecutions.

A government advisory committee composed of representatives of the Ministry of Foreign Affairs, Interpol, the DAS, the Ministry of Justice, the Procuraduria, the

Fiscalia, and the Presidency met every 2 months to discuss trafficking in persons. The committee prepared information campaigns, promoted information exchange between government entities, created trafficking hot lines for victims, and encouraged closer cooperation between the Government and Interpol.

The Government cooperated with foreign counterparts on investigations and successfully freed victims in solo and joint operations. To protect citizens who were trafficked to other countries, government foreign missions provided legal aid and social welfare assistance.

Colombia was a source country for trafficking in women and girls to Europe, the United States, Asia, and other Latin American countries. The DAS reported in 2000 that the country was one of the three most common countries of origin of trafficking victims in the Western Hemisphere; in 2000 an estimated 35,000 to 50,000 Colombian trafficking victims were overseas. The majority of women trafficked for prostitution reportedly went to the Netherlands, Spain, Japan, and Hong Kong. A study carried out in Spain in 1999 by the Roman Catholic religious order the "Adoratrices" found that Colombian women constituted nearly half of all trafficking victims in that country. According to press reports, more than 50 percent of women from Colombia who entered Japan were trafficking victims forced to work as prostitutes. Law enforcement authorities reported that most trafficking victims were from the departments of Valle de Cauca, Antioquia, Santander, Cundinamarca, and the coffee-growing regions of Risaralda, Caldas, Quindio, and Tolima.

Police reported that most traffickers were linked to narcotics or other criminal organizations. Traffickers disguised their intent by running media ads offering jobs, portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting phantom jobs abroad.

The country's overall situation of economic downturn, high unemployment, internal conflict between three major illegal armed groups, and social exclusion contributed to the availability of victims. While young women were the primary targets of traffickers, children and men also were affected. According to officials at the Colombian Family Welfare Institute (ICBF), a high rate of unwanted pregnancy in unwed teenage girls contributed to trafficking in children.

Additional efforts addressed the problem of trafficking within the country's own borders. The Association Against Child Abuse estimated that 220,000 children were victims of sexual exploitation. The ICBF estimated that in Bogota alone there were over 10,000 girls and nearly 1,000 boys exploited as child prostitutes. During the year, the ICBF provided assistance, either directly or through other specialized agencies, to over 14,000 sexually exploited children.

The Hope Foundation, which assisted 26 trafficking victims through October, provided educational information, social support, and counseling to victims of trafficking who returned to the country. Services provided by the Hope Foundation in coordination with government social service agencies included psychological counseling, social assistance, placement, and follow-up care.

COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. The presidential term of Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC), who was elected in February 1998, ended on May 8 with the inauguration of Abel Pacheco de la Espriella, also of the PUSC. Pacheco was elected president during a second-round vote in April that was necessitated by the failure of any one candidate to obtain the constitutionally required 40 percent of the popular vote during the first-round election in February. The judiciary was generally independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which included specialized units such as the antidrug police—and the Ministry of the Presidency shared responsibility for law enforcement and national security. Several police units were combined within the Ministry of Public Security into a single "public force" that included the Border Guard, the Rural Guard, and the Civil Guard. Public security forces generally observed procedural safeguards established by law and the Constitution; however, there were a few reports of police abuse of authority.

The market economy was based primarily on light industry, tourism, and agriculture; the country's population was approximately 3.85 million. The Constitution protects the right to private property; however, domestic and foreign property owners encountered considerable difficulty obtaining adequate, timely compensation for

lands expropriated for national parks and other purposes. The law grants substantial rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Real gross domestic product (GDP) growth was estimated at 0.9 percent in 2001, compared with 1.7 percent in 2000. In October the official unemployment rate was 6.8 percent, the highest in 17 years. An estimated 21 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and the judicial system processed some criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence was a serious problem, and traditional patterns of unequal opportunity for women remained, despite continuing government and media efforts to advocate change. Abuse of children also remained a problem, and child prostitution was a serious problem. Child labor persisted. Costa Rica was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence, and the authorities generally abided by these prohibitions; however, members of the public forces were responsible for some physical abuse. An effective mechanism for lodging and recording complaints of police misconduct existed. The Ombudsman's office served as a recourse to citizens who had complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigated complaints and, when appropriate, initiated suits against officials.

The Ombudsman's office received 44 reports of police abuse of authority or misconduct. At year's end, 24 reports were still being investigated, 12 were determined to be legitimate, and 8 were determined to be without merit. This compared with 21 legitimate complaints received in 2001 and 52 in 2000.

A large percentage of Public Security Force police owed their appointments to political patronage. The Rodriguez and Pacheco administrations continued implementation of the 1994 Police Code and the 2001 Law for Strengthening the Civilian Police in an effort to depoliticize and professionalize the police force. That law amended the Police Code to replace military ranks with civilian titles, required the police academy to develop a course and diploma in police administration that includes material on the fundamental and universal principles of human rights, and attempted to ensure that police officials were not dismissed due to a change in administrations. The Government's long-term plan was to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force.

Prison conditions were considered generally fair, and they generally met international standards. Prisoners were usually separated by sex and by level of security (minimum, medium, and maximum); however, overcrowding sometimes prevented proper separation. Most but not all pretrial detainees were held separately from convicted prisoners. During the year, the Ombudsman's office received eight complaints of physical abuse of prisoners by guards, of which four were still being investigated, two were determined to be legitimate, and two were determined to be without merit. The office also received 62 other complaints from prisoners alleging inadequate medical care, arbitrary administrative procedures, violation of due process of disciplinary procedures, unfair denial of prison transfer requests, and poor living conditions. Of these 62 complaints, 28 were still being investigated at year's end, 12 were determined to be legitimate, and 22 were determined to be without merit. The Ombudsman's office investigated all complaints and referred serious cases of abuse to the public prosecutor. Illegal narcotics were readily available in the prisons, and drug use was common.

Penitentiary overcrowding remained a problem. In December the Social Adaptation Division of the Ministry of Justice reported a total of 12,635 persons under its supervision, including 6,637 jailed prisoners, 1,044 persons required to spend nights and weekends in jail, and 4,452 persons in supervised work programs requiring no jail time. The overall prison overpopulation rate was 8 percent; however, crowding

was more severe in several small jails. The San Sebastian facility in central San Jose, where many pretrial detainees were held, reported an overpopulation rate of 36 percent. After viewing conditions there in December, a judge ordered that no new prisoners be sent there until the overcrowding was relieved. His order was later applied to prisons in Liberia, Puntarenas, and San Ramon.

Problems during the year at La Reforma prison complex, the country's largest, drew attention to conditions in that prison. As of September, 3 homicides, 2 escapes, and a hunger strike involving 120 prisoners protesting poor conditions had taken place. The Ombudsman attributed the problems to overcrowding, crumbling infrastructure, lack of adequately trained prison personnel, lack of prisoner employment programs, and insufficient medical care. Local judicial officials also cited the practice of grouping hardened criminals together with first-time offenders because of a shortage of maximum-security units and an under-functioning drug-rehabilitation program.

Female prisoners were held separately in conditions that generally were considered fair, although overcrowding existed in the women's prison as well. Juveniles were held in separate detention facilities in campus-like conditions that generally were considered good. The juvenile penal system held 44 youths in detention and another 358 in supervised alternative sanction programs.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions in practice.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respected these rights.

The law provides for the right to bail, and the authorities observed it in practice. The authorities generally did not hold detainees incommunicado. With judicial authorization, the authorities could hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. A criminal court could hold suspects in pretrial detention for periods of up to 1 year, and the court of appeals could extend this period to 2 years in especially complex cases. The law requires that suspects in pretrial detention have their cases reviewed every 3 months by the court to determine the appropriateness of continued detention. According to the Ministry of Justice, in June there were 1,956 persons in pretrial detention, representing 23 percent of the prison population.

The Constitution bars exile as punishment, and it was not used.

e. Denial of Fair Public Trial.—The Constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary enforced this right.

The Supreme Court supervised the work of the lower courts, known as tribunals. The Legislative Assembly elected the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decided otherwise by a two-thirds majority. Accused persons could select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail sometimes remained in pretrial custody for long periods (*see* Section 1.d.). Lengthy legal procedures, numerous appeals, and large numbers of detainees caused delays and case backlogs.

There were no new reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; government authorities generally respected these prohibitions, and violations were subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges could approve the use of wiretaps in investigations of genocide, homicide, procurement of minors, production of pornography, smuggling of minors, corruption of minors, trafficking in the organs of minors, and international crimes (which include terrorism and trafficking in slaves, women, children, or narcotics). Legal guidelines on the use of wiretaps, however, were so restrictive that the use of wiretaps was rare.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Irregular enforcement of property rights and duplicate registrations of title damaged the real property interests of many who believed they held legitimate title to land. Landowners throughout the country have suffered frequent squatter invasions for years. According to the Ministry of Public Security, there were no large-scale removals of squatters during the year, and no violence occurred during 14 small-scale evictions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system together ensured freedom of speech and of the press.

There were 6 major privately owned newspapers, several periodicals, 1 government and 4 privately owned television stations, and 1 government and over 90 privately owned radio stations, all of which pursued independent editorial policies.

In an April survey by *La Nacion* newspaper of 81 journalists on their perception of freedom of the press, 56 percent of the journalists claimed that they had received some type of threat during the previous 12 months relating to the performance of their job. Of the threats received, 37 percent were threats of judicial prosecution, 19 percent were threats of economic reprisals against the employer, 19 percent were threats against the job security of the reporter, and 10 percent were threats of physical harm. Of the surveyed journalists, 85 percent indicated that they felt constrained in their practice by existing legislation, while 76 percent were unsatisfied with the slow progress the Assembly had made in reforming existing laws.

A 1996 “right of response” law provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers found it difficult to comply with provisions of this law. The Penal Code outlines a series of “in-sult laws” that establish criminal penalties of up to 3 years in prison for those convicted of “insulting the honor or decorum of a public official.” The law also identifies defamation, libel, slander, and calumny as offenses against a person’s honor that can carry criminal penalties. The Inter-American Press Association and the World Press Freedom Committee asserted that such laws had the effect of restricting reporting by the media, and that they wrongly provided public officials with a shield from public scrutiny by citizens and the press.

The unsolved July 2001 murder of popular radio host Parmenio Medina led to considerable public debate on press freedoms and renewed attention to legislative proposals aimed at easing media restrictions. The Legislative Assembly created a committee to study the different proposals, but at year’s end, debate continued, and the bill had not been approved. On December 23, the police arrested a suspect in the Medina murder, but no charges had been brought by year’s end.

The Office of Control of Public Performances rated films and had the authority to restrict or prohibit their showing; it had similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films was available to the public. A tribunal reviewed appeals of the office’s actions.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for these rights, and the Government generally respected them in practice.

In April hundreds of rice farmers convened in the port of Caldera to protest the unloading of imported rice and blocked the road for 2 days. Police forces dispersed the crowd with tear gas after rocks were thrown at a police vehicle, injuring 34 persons, mostly from exposure to teargas. The police briefly detained 15 persons for a few hours following the disturbance, but all were released without being charged.

In July protesters opposed to the introduction of a new automobile inspection requirement blocked several major highways in 2 days of protests. Taxi drivers, automobile mechanics, and union leaders alleged that the new requirement was too rigid, too expensive, and would force too many cars off the road. The protesters blocked roadways by burning tires and trees and set fire to one roadside restaurant and several vehicles. Police again used tear gas to clear the demonstrations. The police detained 175 participants and brought charges against 63 of them. Most were charged with hindering public services, instigating disorder, and aggravated resistance to police orders. Trial dates had not yet been set by year’s end.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution establishes Roman Catholicism as the state religion; however, it also prohibits the State from impeding the free exercise of other religions “that do not impugn universal morality or proper behavior.” Members of all faiths freely practiced their religion without government interference. The law grants all churches tax-free status but allows the Government to provide land only to the Catholic Church. Religious education teachers in public schools must be certified by the Roman Catholic Church Conference, which does not certify teachers from other denominations or faiths. Denominational and nondenominational private schools were free to offer any religious instruction

they saw fit. Foreign missionaries and clergy of all faiths worked and proselytized freely.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government respected them in practice. There were no restrictions on travel within the country, emigration, or the right of return.

There was a long tradition of providing refuge to persons from other countries. The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government admitted 4,634 persons as refugees under terms of the convention as of December. The office of the U.N. High Commissioner for Refugees (UNHCR) reported the total refugee population to be 11,987 as of September 30.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The Government made a distinction between political asylum and refugee status. The issue of the provision of first asylum did not arise. The UNHCR reported that the Government had received 3,517 requests for asylum as of October 31. The Constitution specifically prohibits repatriation of anyone subject to potential persecution, and there were no reports of the forced return of persons to a country where they feared persecution.

The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans who were in the country prior to November 9, 1998. By the end of 2001, 213,037 Nicaraguans had qualified for and received legal resident status, most of them under this government amnesty program. According to the General Directorate of Migration, as of December, the Government had deported 3,992 and denied entry to 31,345 Nicaraguans.

The UNHCR reported that 7,225 Colombian refugees were resident as of September 30. The majority entered in legal visitor status and applied for residence. According to the UNHCR, 3,386 Colombians requested refugee status as of October 31, compared with 5,018 during 2001. These figures did not include other kinds of recognition, namely for family reunification. Those who sought temporary refugee status were expected to return to their country of origin once the period of conflict ended there.

Allegations of abuse by the Border Guard periodically arose. Although instances of physical abuse appeared to have declined, there continued to be credible reports of extortion of migrants by border officials.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensured the integrity of elections, and the authorities and citizens respected election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office.

In the February elections, the failure of any one presidential candidate to win 40 percent of the popular vote necessitated a runoff election in April, which was won by Abel Pacheco of the Social Christian Union Party. PUSC candidates won 19 of the Legislative Assembly's 57 seats. The National Liberation Party won 17 seats; the newly formed Citizen's Action Party won 14 seats; the Libertarian Movement Party won 6 seats; and the Costa Rican Renovation party won 1 seat.

Women encountered no legal impediments to their participation in politics and were represented increasingly in leadership positions in the Government and political parties. To increase women's representation in government, the Supreme Electoral Tribunal required that a minimum of 40 percent of candidates for elective office be female and that women's names be placed accordingly on the ballots by party slate. The First Vice President (who is also a cabinet member), the Minister of Education, the Minister of Children's Welfare, the Minister of Economy and Industry, the Minister of Health, the Minister of the Presidency, and the Minister of Women's Affairs were women. There were 20 women among the Legislative Assembly's 57 deputies, and women held several prominent offices in the 3 largest political parties. The Foundation of Women Parliamentarians of Costa Rica promoted women's involvement in politics through informational meetings and public awareness cam-

paigns and also worked for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They accounted for about 1 percent of the population, and their approximately 20,000 votes constituted an important swing vote in national elections. No member of the Legislative Assembly identified himself as indigenous.

There were three Afro-Caribbean members in the Assembly; one represented San Jose province and two represented the Caribbean province of Limon. The country's 100,000 Afro-Caribbeans, who mostly resided in Limon province, enjoyed full rights of citizenship, including the protection of laws against racial discrimination.

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

Various human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Costa Rican Commission for Human Rights and the Commission for the Defense of Human Rights in Central America monitored and reported on human rights, as did the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office was part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judicial independence of the Ombudsman's office. The office was divided into nine different directorates, including one for women's issues, one for children and adolescents, as well as a "special protection" directorate for populations such as indigenous people, senior citizens, prisoners, persons with disabilities, immigrants, etc. The Ombudsman opened regional offices in Ciudad Quesada and Liberia.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, were located in San Jose.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides that all persons are equal before the law, and the Government generally respected this provision.

Women.—The Government identified domestic violence against women and children as a serious societal problem. The National Institute for Women (INAMU), an autonomous institution created in 1998 that is dedicated to gender equality, received 63,990 calls on its domestic abuse hot line from January through October. During this same period, INAMU counseled 4,097 female victims of abuse in its San Jose office and accepted 194 women in INAMU-run shelters. INAMU maintained 41 offices in municipalities around the country and had trained personnel working in 32 of the country's 81 cantons.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes prosecuted 448 cases related to domestic violence during the year, compared with 456 cases in 2001. INAMU reported that 24 women were killed in incidents of domestic violence during the year, compared with 11 in 2001.

The 1996 Law Against Domestic Violence establishes precautionary measures to help victims. At year's end, the Legislative Assembly was still debating a Bill to Qualify Violence Against Women as a Crime, which would classify certain acts of domestic violence as crimes and mandate their prosecution whether or not the victim pursued charges against the perpetrator. The authorities incorporated training on handling domestic violence cases into the basic training course for new police personnel. The domestic violence law requires public hospitals to report cases of domestic violence against women. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue increased in news reporting, public service announcements, and feature programs. Reports of violence against women increased, possibly reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all had offices dedicated to this problem. The law against sexual harassment in the workplace and educational institutions sought to prevent and punish sexual harassment in those environments.

Prostitution is legal for persons over the age of 18. The Penal Code prohibits individuals from promoting or facilitating the prostitution of individuals of either sex, independent of the individual's age, and the penalty is increased if the victim is under the age of 18.

The prohibition against trafficking in women for the purpose of prostitution was strengthened by a statute that went into effect in 1999, although trafficking was a problem (*see* Section 6.f.).

In the 2000 census, women constituted 49.6 percent of the population. In 1998 President Rodriguez created the office of Minister of Women's Affairs, who also heads INAMU. The 1990 Law for the Promotion of the Social Equality of Women prohibits discrimination against women and obligates the Government to promote political, economic, social, and cultural equality. As part of its 3-year National Plan for Equality of Opportunity between Women and Men, the Government established an office for gender issues in almost all ministries and most parastatal organizations.

According to the U.N. Development Program, women over age 15 represented 36.6 percent of the labor force. Most women (76 percent) worked in the service sector, with the remainder working in industry (17 percent) and agriculture (6 percent). Women occupied 45 percent of professional and technical positions, and 30 percent of legislative, senior official, and managerial positions. The Constitution and Labor Code require that women and men receive equal pay for equal work; however, the estimated earned income for women was approximately 78 percent of the earned income for men, despite the fact that 20.5 percent of women in the workforce had some university instruction, compared to 11.4 percent of men.

Children.—The Government was committed to children's rights and welfare through well-funded systems of public education and medical care. The law requires 6 years of primary and 3 years of secondary education for all children. There was no difference in the treatment of girls and boys in education or in health care services. In 1998 the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country had a high rate of literacy (95 percent) and a low rate of infant mortality (10 persons per 1,000). The Government spent over 5 percent of GDP on medical care. The autonomous National Institute for Children (PANI) oversaw implementation of the Government's programs for children. In May President Pacheco made PANI's Executive Director a minister, with the title of Minister of Child Welfare.

In recent years, the PANI increased public awareness of abuse of children, which remained a problem. From January to June, the Institute intervened in 4,480 cases of abandonment (compared with 3,640 cases in the first 6 months of 2001), 403 cases of physical abuse (compared with 1,246), 3,475 cases of sexual abuse (compared with 573), and 1,601 cases of psychological abuse (compared with 941) of children. The PANI attributed the increase in cases to better reporting capabilities, an expansion of the definition of child abuse, and simply more abuse. In addition, the 1997 Code of Childhood and Adolescence redefined psychological abuse and increased awareness of it. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hampered legal proceedings against those who committed crimes against children.

The Government, police sources, and UNICEF representatives acknowledged that child prostitution was a serious problem (*see* Section 6.f.).

The NGO Casa Alianza operated a 24-hour telephone help line that received 71 accusations of exploitation of minors from January through August. In 2000 the organization made a presentation to the IACHR about what it termed the growing commercial sexual exploitation of children in the country. Casa Alianza criticized the Government for not providing the PANI with 7 percent of the national tax revenue since 1998, as stipulated by the law creating the PANI, and also criticized the Government for the relatively low number of persons actually charged, found guilty, and sentenced for child exploitation.

The fiscal austerity measures of the Pacheco administration resulted in a 26 percent cut in PANI's budget during the year, and the same reduction was set to be applied to PANI's 2003 budget. The cuts resulted from the Government's reduction of the amount of money transferred to the Social Development and Family Allocation Fund, which is the primary source of PANI's funds. The Ombudsman decried the reductions and pledged to restore PANI's budget by seeking donations from international organizations.

Persons with Disabilities.—The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law was not enforced widely, and many buildings remained inaccessible to persons with disabilities. A 2000 government study concluded that only 35 percent of the law's stated goals had been implemented. Nonetheless, a number of public and private institutions made efforts to improve access. In 1999 the PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing

loss, motor difficulties, attention deficit disorder, and mental retardation. The Ministry of Education operated a Program for Persons with Disabilities, including a national resource center that provided parents, students, and teachers with advanced counseling, training, and information services. The Ministry reported that 17,201 students with disabilities were registered in the school system during the year, and that 46 special education centers had been created.

Indigenous Persons.—The population of about 3.85 million includes nearly 40,000 indigenous persons among 8 ethnic groups. Most lived in traditional communities on 22 reserves which, because of their remote location, often lacked access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, distributed identification cards to facilitate access to public medical facilities in 1999. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman had an office to investigate violations of the rights of indigenous people.

Section 6. Worker Rights

a. The Right of Association.—The law specifies the right of workers to join unions of their choosing without prior authorization, and workers exercised this right in practice. About 15 percent of the work force was unionized, and approximately 80 percent of all union members were public sector employees. Unions operated independently of government control.

Some trade union leaders contended that the existence of worker “solidarity associations” in some enterprises displaced unions and discouraged collective bargaining. However, since 1993, these non-dues-paying organizations were prohibited by law from representing workers in collective bargaining negotiations or in any other way assuming the functions of or inhibiting the formation of trade unions. Instead, their function was to offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans. In some instances, employees had access to both trade union membership and solidarity association services at the same time.

In December the AFL-CIO filed a petition with the U.S. Trade Representative to remove the country from the list of beneficiary countries under the U.S. General System of Preferences and the Caribbean Basin Economic Recovery Act. The AFL-CIO alleged that some employers used solidarity associations, together with legal provisions that permitted the negotiation of “direct agreements” between employers and unrepresented workers, to establish employer-controlled organizations. The petition also alleged that the Government did not accord workers internationally recognized worker rights, specifically the freedom of association and the right to organize and bargain collectively.

A November 2001 ILO report summarized the results of its technical assistance mission, which found that unions were independent, active, and enjoyed the right to organize and express their views freely. According to the ILO, unions represented all types of workers and actively participated in bipartite and tripartite negotiating structures. The law prohibits discrimination against union members and imposes sanctions against offending employers. The ILO report, however, noted continued problems related to the slowness and inefficiency of redress procedures for unjustified firings and discriminatory antiunion measures, especially in the private sector.

There were no new developments during the year in the ILO complaint filed by a union alleging antiunion discrimination in the banana industry, or on a complaint filed by the teachers union.

The ILO’s Committee of Experts (COE) identified several deficiencies in the labor law. Each year since 1998, the ILO encouraged the Government to adopt new measures to bring its law and practice in full compliance with internationally recognized worker rights. The Constitutional Chamber ruled that the National Inspection Directorate must comply with the 2-month time limit for investigations. The ILO criticized this procedure for giving no guarantee or reparations for damages caused, even if the legal deadlines were respected, since the labor inspectors simply certify the wrongdoing but file no charges. Most cases took up to 2 months to resolve, but some may take longer if the judge decided that an unusual situation merited further investigation and required witnesses. Delays in processing court rulings were common throughout the judicial branch, with little improvement in the slow and ineffective recourse procedures in response to antiunion discrimination. The Ministry of Labor continued its efforts to modernize the National Inspection Directorate, to enable it to support worker rights by increasing the authority of regional officers to investigate and process cases of alleged abuse by employers. These regional offices also established local forums where government officials, employers, and employees could discuss labor issues. Inspectors were provided increased opportunities for training and participation in Ministry of Labor administration.

Unions could form federations and confederations and affiliate internationally.

b. The Right to Organize and Bargain Collectively.—The Constitution protects the right to organize. Foreign nationals are expressly prohibited from exercising direction or authority in unions. Since 1998 the COE specifically addressed this problem and repeatedly expressed its hope that the Government would adopt reforms to bring this law and practice into full conformity with internationally recognized norms. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation; however, the employer is not obligated to follow any specific procedures to prove grounds for dismissal. The revised provisions require employers who are found guilty of unfair labor practices to reinstate workers fired for union activities; however, enforcement of the measure was lax.

The November 2001 ILO report commented on several rulings issued by the Constitutional Court that “emphasized the confusion, uncertainty, and even legal insecurity” with regard to the scope of public sector employees to bargain collectively. The COE “expressed its deep concern over this situation which constitutes a serious violation . . . of the right to collective bargaining in the public sector.” The COE urged the Legislative Assembly to ratify ILO Conventions 151 and 154, which would make it possible to find solutions to the problems that exist. A group of legislators also began working on a bill to amend the Constitution specifically to provide for the right to collective bargaining.

Private sector unions had the legal right to engage in collective bargaining; however, collective bargaining diminished as a result of several factors, including lengthy delays in court processing of unfair dismissal suits and solidarity associations in effect displacing trade unions. The ILO report drew attention to the “enormous imbalance” in the private sector between the number of collective agreements concluded by trade union organizations (12, with very low coverage - 7,200 workers) and direct pacts concluded by nonunionized workers (130). The COE noted that trade union confederations linked this imbalance with employers or solidarity associations, an allegation that employers denied. The ILO requested that the Government take the necessary measures to promote collective bargaining within the meaning of ILO Convention 87 and to hold an investigation by independent persons concerning the reasons for the increase in direct pacts with nonunionized workers.

The Constitution and Labor Code restrict the right of public sector workers to strike. However, in 1998 the Supreme Court formally ruled that public sector workers, except those in essential positions, had the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes. Nonetheless, the COE reported that workers in the rail, maritime, and air transport sectors were prohibited from exercising their right to strike.

In 2000 the Supreme Court’s Constitutional Chamber clarified the law forbidding public sector strikes. It ruled that public sector strikes could be allowed only if a judge approved them beforehand and found that “services necessary to the well-being of the public” were not jeopardized. Public sector workers who decided to strike could no longer be penalized by a prison sentence but could face charges of breach of contract.

There were no legal restrictions on the right of private sector workers to strike, but few private sector workers belonged to unions. Private sector strikes rarely occurred, and there were no major strikes during the year.

All labor regulations applied fully to the country’s nine export processing zones (EPZs). The Labor Ministry oversaw labor regulations within the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and there were no reports that it occurred. Laws prohibit forced and bonded labor by children, and the Government generally enforced this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution and the Labor Code provide special occupational protection for minors and pregnant and nursing women, and establish a minimum working age of 15 years. Adolescents between the ages of 15 and 18 may work for a maximum of 6 hours daily and 36 hours weekly with special permission from the PANI, while children under the age of 15 may not work legally. The PANI, in cooperation with the Labor Ministry, generally enforced these regulations in the formal sector. Due to limited government resources for enforcement, some children worked on the fringes of the formal economy in violation of these limits. Youths under the age of 18 may not work in the banana industry. According to PANI estimates for 2000, 19 percent of children between the ages of 5 and 17 were employed in domestic tasks, while 15 percent worked outside the home. In October the Labor Ministry reported that 72,000 children between the ages of 5 and 16 worked illegally instead of attending

school. Another 16,000 children between the ages of 16 and 18 quit school to work. According to a 1998 survey, children between the ages of 5 and 11 were paid only 11.6 percent of the minimum wage, those between the ages of 12 and 14 were paid 21 percent of the minimum wage, and the group between the ages of 15 and 17 was paid 56 percent of the minimum wage.

With help from the ILO, the Labor Ministry was working to phase out child labor in the formal sector and asked employers of children to notify the Ministry of such employment. The National Directive Committee for the Progressive Eradication of Child Labor and Protection of Adolescent Laborers includes representatives from the PANI, the Ministry of Labor, the Ministry of Justice, the Ministry of Public Security, the Ombudsman's Office, UNICEF, the ILO, and area universities. The Ministry of Labor maintained an Office for the Eradication of Child Labor, which cooperated with projects sponsored by the ILO, U.N. Development Program, and other entities. Nonetheless, child labor remained an integral part of the informal economy, particularly in small-scale agriculture and family-run microenterprises selling various items, which employed a significant proportion of the labor force. Child prostitution was a serious problem (*see* Section 6.f.).

e. Acceptable Conditions of Work.—The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, set minimum wage and salary levels for all sectors. Monthly minimum wages for the private sector were adjusted on July 4 and ranged from approximately \$144 (51,732 colones) for domestic employees to approximately \$560 (203,571 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally followed the settlement of private sector negotiations. The Ministry of Labor effectively enforced minimum wages in the San Jose area but did so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage was not sufficient to provide a worker and family with a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers did not receive overtime pay if they voluntarily worked beyond their normal hours. Little evidence existed that employers coerced employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law established such committees but either did not use the committees or did not turn them into effective instruments for improving workplace conditions. The Government did not provide sufficient resources to the Labor Ministry to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose, or to verify effectively compliance with labor laws by the country's approximately 42,000 companies. In June and August, two industrial accidents brought attention to the lack of labor occupational safety inspectors operating in the country. Workers had the right to leave work if conditions become dangerous; however, workers who did so may jeopardize their jobs unless they filed written complaints with the Ministry of Labor.

f. Trafficking in Persons.—The law prohibits trafficking in women for the purpose of prostitution, and a 1999 statute strengthens this prohibition; however, Costa Rica was a transit and destination country for trafficked persons. Isolated cases of trafficking have involved persons from Africa, Asia, Bolivia, China, Colombia, Cuba, the Dominican Republic, and the Middle East. There also were reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation.

The Criminal Code prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking. In November 2001, the General Directorate of Migration implemented an executive decree to prohibit persons linked to trafficking from entering Costa Rica. In December 2001, a law entered into force that permits the use of wiretaps in investigations of trafficking, although legal guidelines governing the use of wiretaps were so strict that investigators rarely used them.

Child prostitution was a serious problem. Although no official statistics existed, the PANI identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Estimates of the number of children in-

volved in prostitution varied widely, and the only scientific studies focused on limited areas. The 1999 Law Against the Sexual Exploitation of Minors specifically penalizes persons who use children and adolescents under age 18 for erotic purposes and makes it a crime to engage in prostitution with minors. An adult who pays for sex with a minor can be sentenced to 2 to 10 years in prison. The Government took steps to enforce this law and raided brothels and arrested clients. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution. On December 5, a court convicted five persons arrested in 2001 for sexual exploitation of children; two were sentenced to 30 years' imprisonment and three to 16 years.

A government Inter-Ministerial Group on Trafficking addressed the problem in the country. Each participating ministry reportedly incorporated preventive trafficking measures into its ministerial agenda. The Government supported prevention programs to combat sexual exploitation of minors and trafficking. There were limited formal mechanisms specifically designed to aid trafficked victims; however, the Government offered indirect assistance, such as stay-in-school programs, to child victims of trafficking. Victims were not granted temporary or permanent residence status and often were deported immediately to their country of origin.

CUBA

Cuba is a totalitarian state controlled by Fidel Castro, who is Chief of State with the titles of President, Head of government, First Secretary of the Communist Party, and commander in chief of the armed forces. Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the Government bureaucracy headed by the Council of State, and the state security apparatus. The Communist Party is the only legal political entity, and Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies previously decided by the governing Council of State. The Communist Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal entity of state security and totalitarian control. Officers of the Revolutionary Armed Forces, which are led by Fidel Castro's brother General Raul Castro, were assigned to the majority of key positions in the Ministry of Interior in the past several years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigated and actively suppressed political opposition and dissent. It maintained a pervasive system of surveillance through undercover agents, informers, rapid response brigades (RRBs), and neighborhood-based Committees for the Defense of the Revolution (CDRs). The Government traditionally has used the CDRs to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. RRBs consisted of workers from a particular brigade (construction workers, a factory, etc.) that were organized by the Communist Party to react forcefully to any situation of social unrest. The Government on occasion used RRBs instead of the police or military during such situations. Members of the security forces committed numerous, serious human rights abuses.

The economy was centrally planned, with some elements of state-managed capitalism in sectors such as tourism and mining. The country's population was approximately 11 million. The economy depended heavily on primary products such as sugar and minerals, but also on its recently developed tourism industry. The economy performed poorly during the year, mainly due to inefficient policies. The 2001-02 sugar harvest was poor, remittances from abroad decreased, and tourist arrivals declined 5 percent below 2001 levels. In November 2001, Hurricane Michelle severely affected agricultural production, which did not begin to recover until midyear. Government officials announced that the economy had grown by 1.1 percent during the year. Government policy was officially aimed at preventing economic disparity, but persons with access to dollars enjoyed a significantly higher standard of living than those with access only to pesos. During the year, the Government issued a moratorium on new licenses for small private businesses in the service sector, many of which have been fined on unclear grounds or taxed out of existence. A system of "tourist apartheid" continued, whereby citizens were denied access to hotels, beaches, and resorts reserved for foreign tourists.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their gov-

ernment peacefully. Although the Constitution allows legislative proposals backed by at least 10,000 citizens to be submitted directly to the ANPP, the Government rejected a petition known as the Varela Project, with over 11,000 signatures calling for a national referendum on political and economic reforms. The Government mobilized the population to sign a counter-petition reinforcing the socialist basis of the State; the ANPP unanimously approved this amendment. Communist Party-affiliated mass organizations tightly controlled elections to provincial and national legislative bodies, resulting in the selection of single, government-approved candidates. Prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh and life threatening. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news, restricted access to the Internet, and maintained strict censorship of news and information to the public. The Government restricted some religious activities but permitted others. The Government limited the entry of religious workers to the country. The Government maintained tight restrictions on freedom of movement, including foreign travel and did not allow some citizens to leave the country. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution were problems. Racial discrimination was a problem. The Government severely restricted worker rights, including the right to form independent unions. The Government prohibits forced and bonded labor by children; however, it required children to do farm work without compensation.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—There were no reports of politically motivated killings.

On August 16, Juan Sanchez Picoto died in a psychiatric hospital in San Luis de Jagua, allegedly by suicide. According to family members, Sanchez Picoto had tried to emigrate nine times since 1998, and after the last attempt the authorities forcibly removed him from his home and placed him in a psychiatric unit for alcoholics at a Guantanamo psychiatric hospital. He was held in a ward for violent and mentally ill offenders, despite a doctor's diagnosis that he did not meet criteria for involuntary commitment. He was allegedly given shock therapy and assaulted by another detainee, resulting in a head injury. On August 15, he was transferred from the Guantanamo hospital to the San Luis de Jagua unit and died the next day; family members were not allowed to see the body.

During the year, there were reports that prisoners died in jail due to lack of medical care (*see* Section 1.c.).

There was no new information about the results of any investigation into the deaths of Leovigildo Oliva and Leonardo Horta Camacho, and no government action was likely; police reportedly shot and killed both men in 2000.

The Government still has not indemnified the survivors and the relatives of the 41 victims for the damages caused in the Border Guard's July 1994 sinking of the "13th of March" tugboat, despite a 1996 recommendation by the Inter-American Commission on Human Rights (IACHR) to do so.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits abusive treatment of detainees and prisoners; however, members of the security forces sometimes beat and otherwise abused human rights advocates, detainees, and prisoners. The Government took no steps to curb these abuses. There continued to be numerous reports of disproportionate police harassment of black youths (*see* Section 5).

On March 4, state security agents, police, and civilian members of an RRB beat blind activist Juan Carlos Gonzalez Leyva, independent journalist Carlos Brizuela Yera, and eight other activists, who were at a public hospital in Ciego de Avila pro-

testing the earlier beating of independent journalist Jesus Alvarez Castillo. Police forcibly removed the protesters from the hospital and arrested them. On August 21, a municipal court charged them with “contempt for authority, public disorder, disobedience, and resistance.” Prosecutors requested a 6-year sentence for Gonzalez Leyva. Gonzalez Leyva protested his imprisonment through a liquids-only fast, and at year’s end weighed less than 100 pounds.

On September 17, plainclothes police beat 59-year-old Rafael Madlum Payas of the Christian Liberation Movement as he approached a police station to inquire about the cases of seven activists being held at the station.

The Government continued to subject persons who disagreed with it to what it called acts of repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims were obliged to stage public protests against those who dissented from the Government’s policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occurred. Police and state security agents often were present but took no action to prevent or end the attacks. Those who refused to participate in these actions faced disciplinary action, including loss of employment.

On July 1, the first secretary of the Communist Party in Cruces, Cienfuegos province, directed 150 persons to engage in an act of repudiation against Gladys Aquit Manrique of the Cuban Pro Human Rights Party. The persons shouted epithets at Aquit Manrique and kicked her door.

There were also smaller-scale acts of repudiation, known as “reuniones relampagos,” or rapid repudiations. These acts were conducted by a small number of persons, usually not from the target’s neighborhood, and lasted up to 30 minutes. These individuals shouted epithets and threw stones or other objects at the victim’s house.

On April 21, members of an RRB beat Grisel Almaguer Rodriguez of the Political Prisoners Association as she departed the home of human rights activist Elizardo Sanchez Santa Cruz.

On September 21, persons directed by state security officials threw stones and mud at the home of Jose Daniel Ferrer of the Christian Liberation Movement and beat Victor Rodriguez Vazquez and Yordanis Almenares Crespo, who were visiting Ferrer at the time of the attack.

On September 24, police in Santiago province directed persons to beat six members of the Christian Liberation Movement during an act of rapid repudiation.

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh. The Government claimed that prisoners had rights such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director; however, police and prison officials often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. The Penal Code prohibits the use of corporal punishment on prisoners and the use of any means to humiliate prisoners or to lessen their dignity; however, the code fails to establish penalties for committing such acts, and they continued to occur in practice. Detainees and prisoners, both common and political, often were subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims. Some endured physical and sexual abuse, typically by other inmates with the acquiescence of guards, or long periods in punitive isolation cells. Pretrial detainees were held separately from convicted prisoners. In Havana there were two detention centers; once sentenced, persons were transferred to a prison.

Prisoners sometimes were held in “punishment cells,” which usually were located in the basement of a prison, were semi-dark all the time, had no water available in the cell, and had a hole for a toilet. No reading materials were allowed, and family visits were reduced to 10 minutes from 1 or 2 hours. There was no access to lawyers while in the punishment cell.

On May 10, political prisoner Carlos Luis Diaz Fernandez informed friends that he had been held in solitary confinement since January 2000 in a cell with no electric light and infested by rats and mosquitoes.

In August six guards at Guamajal prison, Villa Clara province, beat common prisoner Pedro Rafael Perez Fuentes until he was unconscious. Perez Fuentes told his mother that the guards had beaten him because he had asked them why he had been denied exercise privileges. The prison warden verbally abused Perez Fuentes’ mother when she informed him of her plans to report the assault.

On August 6, prison officials, including the chief of political reeducation, beat political prisoner Yosvani Aguilar Camejo. Aguilar Camejo is the national coordinator

for the Fraternal Brothers for Dignity Movement. He was arrested at the time of the Mexican Embassy break-in by asylum seekers in late February (*see* Section 1.d.).

Prison guards and state security officials subjected human rights and prodemocracy activists to threats of physical violence, to systematic psychological intimidation, and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners.

On February 21, political prisoner Ariel Fleitas Gonzalez advised relatives that prison authorities had placed a dangerous common criminal in his cell in Canaleta prison to monitor his activities. That prisoner threatened Fleitas Gonzalez when the latter called upon officials to respect prisoners' rights.

On June 20, a guard at Las Ladrilleras prison in Holguin province instructed a common prisoner to beat political prisoner Daniel Mesa. Mesa reportedly suffered brain damage as a result of the attack.

In late October, imprisoned dissident Leonardo Bruzon Avila was hospitalized from the effects of a 43-day hunger strike. In February the authorities had arrested Bruzon on charges of civil disobedience. In December the authorities returned Bruzon to prison, where he resumed a liquids-only diet. Family members and colleagues believed he was returned to prison before he had fully recovered from the effects of his hunger strike.

In November Ana Aquililla, wife of Francisco Chaviano Gonzalez, reported that her husband remained confined with common prisoners, that for more than 1 year he was not allowed outside the prison for recreation, and that he could not receive family visits. Chaviano is the former president of the National Council for Civil Rights in Cuba and received a 15-year prison sentence in 1994 on charges of espionage and disrespect.

Political prisoners were required to comply with the rules for common criminals and often were punished severely if they refused. They often were placed in punishment cells and held in isolation.

The Government regularly failed to provide adequate nutrition and medical attention, and a number of prisoners died during the year due to lack of medical attention. In 1997 the IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the former U.N. Special Rapporteur on Cuba, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition.

In early June, common prisoner Hector Labrada Ruedas died of internal bleeding after prison authorities refused his requests for medical attention.

Alberto Martinez Martinez contracted hepatitis and leptospirosis while being held for attempting to leave the country without government authorization. He was placed in intensive care following his release. Martinez Martinez is the son of Alberto Martinez Fernandez, president of the Political Prisoners and Ex-Political Prisoners Club.

On June 19, the illegal (*see* Section 2.b.) nongovernmental organization (NGO) National Office for the Receipt of Information on Human Rights Violations reported that political prisoner Nestor Garcia Valdes had contracted tuberculosis while being held in Guantanamo Provincial Prison with nine infected common prisoners, none of whom had received treatment for the disease.

The wife of political prisoner Nestor Rodriguez Lobaina reported that Rodriguez feared for his health because he had been held for an extended period in a cell with two prisoners suffering from tuberculosis. Rodriguez was especially concerned because his wife and young daughter visited him in his cell, exposing them to possible infection as well. Rodriguez' wife claimed that the prison doctor had refused to transfer Lobaina after learning that he was a political prisoner, saying that his fate was of no concern to her. Rodriguez is in the third year of a 6-year sentence for "contempt of authority" and "public disorder."

Political prisoner Osvaldo Dussu Medina reported that inmates in Boniato prison were forced to wash their clothes in water contaminated with feces and urine from a broken sewer pipe. Prison authorities had been aware of the contamination for 2 years but did nothing to remedy the situation.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. Some prison directors routinely denied religious workers access to detainees and prisoners. Reading materials, including Bibles, were not allowed in punishment cells. Prison authorities refused to grant blind dissident Juan Carlos Gonzalez Leyva access to his Braille Bible.

In July prison officials in Ceramica Roja prison denied religious visits to political prisoner Enrique Garcia Morejon of the Christian Liberation Movement. Garcia

Morejon twice requested visits by a Catholic priest while the priest was visiting other prisoners.

There were separate prison facilities for women and for minors. Conditions of these prisons, especially for women, did not take into account the special needs of women. Human rights activists believed that conditions were poor.

The Government did not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused to allow prison visits by the International Committee of the Red Cross (ICRC) since 1989. In 2001 the Cuban Commission for Human Rights and National Reconciliation (CCHRNC), an illegal NGO, appealed to the Government to create a national commission with representatives from the Cuban Red Cross, the Ministry of Public Health, and different churches, to inspect the prisons and recommend changes to the existing situation. The CCHRNC did not receive a response from the Government.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective tactics for harassing opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the Cuban people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The authorities routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and unsanitary conditions for hours or days at a time. Police frequently lacked warrants when carrying out arrests or issued warrants themselves at the time of arrest. Authorities sometime employed false charges of common crimes to arrest political opponents. Detainees often were not informed of the charges against them. The CCHRNC reported a significant increase in the number of detentions in February and March. In May Amnesty International recognized the increase of arrests and harassment of dissidents, including organizers for the opposition Varela Project (see Section 3), and expressed concern about the increased use of violence by security forces. The authorities continued to detain human rights activists and independent journalists for short periods, often to prevent them from attending or participating in events related to human rights issues (see Sections 2.a. and 2.b.). The authorities also placed such activists under house arrest for short periods for similar reasons.

On January 28, police arrested Martha Beatriz Roque, director of the Cuban Institute of Independent Economists, for refusing to allow government employees to fumigate her residence against mosquitoes. Roque refused because she had suffered allergic reactions as a result of previous fumigations. State security officials took Roque to a Ministry of Health office, where she was strip searched, held for 4 hours, and released. Government officials broke into Roque's house and fumigated it while she was in detention.

On February 24, state security officials arrested independent journalist Carlos Alberto Dominguez for participating in an event commemorating the four pilots killed in February 1996 by military aircraft. He was released the same day but was arrested again on February 28 and remained jailed on charges of "contempt for authority and public disorder" (see Section 2.a.). At year's end, his relatives reported that Dominguez was in poor health and receiving inadequate treatment for hypertension and severe migraine headaches.

In late February, police arrested at least 300 persons near the Mexican Embassy after 21 asylum seekers used a bus to break through the gates of the embassy. Many of those arrested were reportedly bystanders not involved in the embassy intrusion. RRBs summoned by the Government to the Mexican Embassy beat some bystanders. Most bystanders were interrogated and released, but on March 6, Fidel Castro indicated that 130 of them would be tried on charges related to the embassy break-in. According to relatives, approximately 60 remained jailed at year's end; none had been tried.

On March 13, police arrested seven human rights activists in Nueva Gerona, Isle of Youth, as they conducted a public demonstration calling for democratic reforms and the release of political prisoners (see Sections 2.a. and 2.b.).

On March 18, state security officials arrested four leaders of the Brotherhood of Blind Cubans to prevent a demonstration against police mistreatment of handicapped street vendors and calling for the release of blind dissident Juan Carlos Gon-

zalez Leyva (*see* Sections 1.c., 2.b., and 5). Police released the four after citing them with "official warnings."

On April 17, police arrested Barbaro Vela Coego and Armando Dominguez Gonzalez, president and vice president, respectively, of the January 6 Civic Movement, to prevent their attendance at a fast in honor of political prisoners. They were held for 2 hours and released (*see* Section 2.b.).

On April 22, police arrested Milka Pena Martinez of the Cuban Pro Human Rights Party for protesting a police search of her home (*see* Section 1.f.). Police also arrested Luis Ferrer Garcia of the Christian Liberation Movement, who was present at the time, and Ramon Collazo Almaguer, who led a group of dissidents to Pena Martinez' home to protest her arrest. Pena Martinez was fined and all three were released.

On May 19, police arrested Nereida Cala Escalona and Evelio Manteira Barban as they departed a meeting in Santiago de Cuba organized by the Christian Liberation Movement. They were interrogated, threatened with imprisonment, and released on May 20.

On June 1, police arrested nine activists as they departed a human rights course at the illegal NGO Culture and Democracy Institute in Santiago de Cuba. They were interrogated and released on June 2.

On June 7, police arrested three members of the 30th of November Party in Santiago de Cuba. They were interrogated and released on June 10.

On June 14, state security officials beat and arrested independent journalist Carlos Serpa Maceira while he was covering a march by human rights activists in the Isle of Youth (*see* Section 2.a.). He was briefly detained, fined \$48 (1,200 pesos), and then released.

On July 24, police arrested human rights activist Adolfo Lazaro Bosq at a vigil for political prisoners on charges of "resistance and contempt for the revolutionary process." On August 2, a municipal court sentenced him to 1 year and 9 months' imprisonment (*see* Section 1.e.).

In July state security officials arrested independent journalist Yoel Blanco Garcia and took him to a local firehouse where he was interrogated. The state security officials warned Blanco Garcia not to visit the home of Martha Beatriz Roque, director of the Cuban Institute of Independent Economists.

On July 29, state security officials arrested Rogelio Menendez Diaz, president of the Cuban Municipalities for Human Rights. He was held for 35 days in Villa Marista prison, where guards transferred him between chilled and heated cells. During interrogations, Menendez Diaz was accused of organizing clandestine cells on behalf of exile groups along with activists Angel Pablo Polanco and Marcel Valenzuela Salt, who had also been detained. Menendez Diaz was charged with "contempt against the Commander in Chief" and warned to cease opposition activities. He was released on September 2 but rearrested on December 10, apparently to prevent his participation in events commemorating International Human Rights Day. At year's end, he had not been tried and remained jailed.

On July 30, state security officials arrested independent journalist Angel Pablo Polanco and held him for 4 days in an unregistered house of detention. Polanco was 60 years old and moved with the aid of a walker. During a search of his home, state security agents removed a fax machine and a telephone which Polanco had purchased from a state company, \$1,200 in cash, a tape recorder, books on Cuban history, and files related to his work as a journalist. The officials did not provide a receipt for the money or the items (*see* Section 2.a.). Polanco was charged with inciting others to commit "contempt of authority" and "insulting the symbols of the State," apparently in connection with plans by opposition groups to mark the August 5 anniversary of 1994 riots in Havana. He was accused of organizing clandestine cells along with activists Manuel Menendez Diaz and Marcel Valenzuela Salt, who had been arrested on July 29. Polanco was granted conditional release on August 3. At year's end, Polanco had not been tried.

On September 11, police arrested Luis Milan of the Christian Liberation Movement for writing a letter to municipal officials in Santiago de Cuba calling for improved prison conditions.

On December 6, police arrested Dr. Oscar Elias Biscet, a political prisoner who had been released on October 31 after serving 3 years for disrespect, creating a public disturbance, and encouraging others to violate the law. The authorities arrested Biscet and 16 others to prevent them from holding a seminar on nonviolent civil disobedience. The authorities later released 12 of the detainees, but charged Biscet, his associate Raul Arencibia Fajardo, and 2 others with public disorder, which carries a sentence of up to 1 year.

The Government often held persons without charges for months and then released them, which avoided the spectacle of a trial. Of the 36 political prisoners arrested

during the year, 6 were released without charges, including several who had been informally advised of charges but were never processed.

State security police used detentions and warnings to prevent organizations around the island from performing any actions in remembrance of the four pilots killed in February 1996 by military aircraft. As in previous years, on July 13, police prevented activists from commemorating the 1994 sinking of the "13th of March" tugboat (*see* Sections 1.d and 2.b.).

The authorities sometimes detained journalists in order to question them about contacts with foreigners or to prevent them from covering sensitive issues or criticizing the Government (*see* Section 2.a.).

Time in detention before trial counted toward time served if convicted. Bail was available and usually was low and more equivalent to a fine.

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threatened prosecution under this provision. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR criticized this tactic for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so-called special inclination to commit crimes referred to in the Penal Code amounted to a subjective criterion used by the Government to justify violations of individual freedoms and due process for persons whose sole crime was to hold a view different from the official view.

The Government also used exile as a tool for controlling and eliminating internal opposition. In May Amnesty International noted that the Government detained human rights activists repeatedly for short periods and threatened them with imprisonment unless they gave up their activities or left the country. The Government used these incremental, aggressive tactics to compel independent librarian Ramon Humberto Colas and Maritza Lugo Fernandez, vice president of the Democratic November 30 Party, to leave the country in December 2001 and January, respectively.

The Government pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. Human Rights Watch observed that the Government routinely invoked forced exile as a condition for prisoner releases and also pressured activists to leave the country to escape future prosecution. Amnesty International expressed particular concern about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they did not leave the country. According to Amnesty International, this practice "effectively prevents those concerned from being able to act in public life in their own country."

e. Denial of Fair Public Trial.—The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State, which is headed by President Castro. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of society and the State, further compromises the judiciary's independence. The courts undermined the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civilian courts existed at the municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges presided over them. There was a right to appeal, access to counsel, and charges were known to the defendant. Defendants enjoyed a presumption of innocence, but the authorities often ignored this right in practice.

Military tribunals assumed jurisdiction for certain counterrevolutionary cases and were governed by a special law. The military tribunals processed civilians if a member of the military was involved with civilians in a crime. There was a right to appeal, access to counsel, and the charges were known to the defendant.

The law and trial practices did not meet international standards for fair public trials. Almost all cases were tried in less than 1 day; there were no jury trials. While most trials were public, trials were closed when there were alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in capital cases are automatic. The Council of State ultimately must affirm capital punishment.

Criteria for presenting evidence, especially in cases involving human rights advocates, were arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, was the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer (*see* Section 1.c.). The authorities regularly denied defendants access to their lawyers until the day of the trial. Several dissidents who served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

The law provides the accused with the right to an attorney, but the control that the Government exerted over the livelihood of members of the state-controlled lawyers' collectives compromised their ability to represent clients, especially when they defended persons accused of state security crimes. Attorneys reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

On January 30, the Havana Provincial Court sentenced activist Carlos Oquendo Rodriguez to 2 years' imprisonment for "contempt for authority" and "public disorder." The provincial court confirmed the sentence levied against Oquendo Rodriguez by a municipal court in 2001 and appealed by him to the provincial court. Prior to sentencing, police officials offered to suspend Oquendo Rodriguez' sentence if he recanted his political beliefs, but Oquendo Rodriguez refused.

On August 2, a municipal court sentenced human rights activist Adolfo Lazaro Bosq to 1 year and 9 months' imprisonment for "resistance and contempt against the revolutionary process." Bosq was arrested on July 24 at a candlelight vigil for political prisoners (*see* Section 1.d.).

Vladimiro Roca Antunez of the Internal Dissident Working Group was released on May 5, after serving most of his 5-year sentence for a 1997 conviction for acts against the security of the State in relation to the crime of sedition after the group peacefully expressed their disagreement with the Government. Three other members received conditional releases in 2000.

Human rights monitoring groups inside the country estimated the number of political prisoners to be between 230 and 300 persons. At year's end, the CCHRNC reported that 36 political prisoners had been arrested and that there were 248 political prisoners in the country; at the end of 2001, the CCHRNC had reported 240 political prisoners. The CCHRNC noted that since the Government refused to publish the number of prisoners in the country, its figures were based on information obtained from family members of prisoners. A spokesperson for the CCHRNC noted an end to a recent downward trend in the numbers of political prisoners, with an increase in detentions in February and March (*see* Section 1.d.). The authorities imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, or the broad charge of rebellion, which often was brought against advocates of peaceful democratic change. The Government did not permit access to political prisoners by human rights organizations. It continued to deny access to prisoners by the ICRC.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such as the CDRs, remained one of the most pervasive and repressive features of daily life. The State assumed the right to interfere in the lives of citizens, even those who did not oppose the Government and its practices actively. The authorities utilized a wide range of social controls. The mass organizations' ostensible purpose was to improve the citizenry, but in fact their goal was to discover and discourage nonconformity. Citizen participation in these mass organizations declined; the economic crisis both reduced the Government's ability to provide material incentives for their participation and forced many persons to engage in black market activities, which the mass organizations were supposed to report to the authorities.

The Interior Ministry employed an intricate system of informants and block committees (the CDRs) to monitor and control public opinion. While less capable than in the past, CDRs continued to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controlled all access to the Internet, and all electronic mail messages were subject to censorship. Dial-up Internet service was prohibitively expensive for most citizens. The Interior Ministry's Department of State Security often read international correspondence and monitored overseas telephone calls and conversations with foreigners. The Government also monitored domestic phone calls and correspondence. The Government sometimes denied telephone service to political dissidents. Cell phones were generally not available to average citizens.

Dolia Leal Francisco of the Cuban Institute of Independent Economists reported that state security officials pressured her local CDR to deny her home telephone service because of her “counterrevolutionary activities.” State security officials threatened to terminate telephone service of Leal Francisco’s neighbors if they allowed her to use their phones. A CDR member and a state security agent warned one neighbor that she would lose her job and that her daughter’s education would be affected if she allowed Leal Francisco access to a telephone.

On February 8, state security officials threatened to evict activist Adonis Castro Martinez from his home, which he had rented for 4 years from his employer, the Ministry of Health, because he had used the home for meetings of the Cuban Pro Human Rights Party Affiliated with the Andrei Sakharov Foundation (*see* Section 2.b.).

In late March, police instructed a neighbor of independent labor organizers Luis Sergio Nunez and Gabriel Sanchez of the Independent National Labor Organization to report on any calls made by them from her telephone (*see* Section 6.b.).

On April 22, police arrested Milka Pena Martinez of the Cuban Pro Human Rights Party for protesting a police search of her home (*see* Section 1.d.). Police claimed to be searching for an individual who did not live at that residence. Asked by Pena Martinez to produce a warrant, a police lieutenant wrote out a warrant on a blank sheet of paper. Police also arrested Luis Ferrer Garcia of the Christian Liberation Movement, who was present at the time of the search of Pena Martinez’ home, and Ramon Collazo Almaguer, who led a group of dissidents to Pena Martinez’ home to protest her arrest. All three were released after Pena Martinez was fined \$80 (2,000 pesos) for being unable to explain the presence of a large quantity of flour in her home.

On May 8, telephone service was cut to the home of Luis Octavio Garcia Gonzalez, spokesman for the Cuban Pro Human Rights Party Affiliated with the Andrei Sakharov Foundation. When service was restored, unknown persons made repeated calls to Garcia Gonzalez shouting revolutionary slogans.

On May 17, police went to the home of Pedro Veliz, president of the Independent Medical School of Cuba, and instructed him to leave Havana for the day to prevent his attendance in ceremonies marking the founding of a prerevolutionary political party (*see* Section 2.b.). Veliz, along with his wife and children, were forced to leave their home and were followed by state security officials until they left the city.

On June 2, the National Office for the Receipt of Information on Human Rights Violations in Cuba reported that workers at a popular cyber cafe had been instructed to review all outgoing e-mails and to track websites viewed by individual patrons.

On June 19, state security officials threatened to block the university admission of the son of human rights activists Carmen Luz Figueredo and Sergio Gomez Fernandez because of their failure to sign a government petition making socialism an “untouchable” element of the Constitution. That same day, CDR officials warned independent journalist Carlos Serpa Maceira that his public refusal to sign that government petition threatened his 9-year-old daughter’s future. In late June, directors of an agricultural cooperative in Camaguey province suspended food subsidies to cooperative member Jorge de Armas for failing to sign the Government petition (*see* Section 3).

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana. For example, on June 1, police in Havana province arrived in the neighborhood of Buena Esperanza to remove persons from eastern Cuba living in the area without authorization. An unknown number of men were removed in trucks on that date, while women and children were given 72 hours to depart (*see* Section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for citizens’ freedoms of speech and press insofar as they “conform to the aims of socialist society.” This clause effectively bars free speech. In law and in practice, the Government did not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials impose penalties between 3 months and 1 year in prison. If President Castro or members of the ANPP or Council of State were the objects of criticism, the sentence could be extended to 3 years. Charges of disseminating enemy propaganda, which included merely expressing opinions at odds with those of the Government, could bring sentences of up to 14 years. In the Government’s view, such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines constituted enemy propaganda. Local CDRs inhibited freedom of speech by monitoring and reporting dissent or criticism. Police and state se-

curity officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

The Constitution states that print and electronic media are state property and can never become private property. The Communist Party controlled all media except for a few small church-run publications. Even the church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vital* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year.

Citizens did not have the right to receive publications from abroad, although news stands in hotels for foreigners and certain hard currency stores sold foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts at times overcame the jamming attempts on short-wave bands, but its medium-wave transmissions were blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All legal media must operate under party guidelines and reflect government views. The Government attempted to shape media coverage to such a degree that it not only exerted pressure on domestic journalists but also pressured groups normally outside the official realm of control, such as visiting international correspondents.

The 1999 Law to Protect National Independence and the Economy outlaws a broad range of activities that undermine state security and toughens penalties for criminal activity. Under the law, anyone possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, may be subject to fines and prison terms of 7 to 20 years. While many activities between citizens and foreigners possibly could fall within the purview of this law, it appeared to be aimed primarily at independent journalists; however, no one has been tried under this law.

The Government continued to threaten independent journalists, either anonymously or openly, with arrests and convictions based on the 1999 law. Some journalists were threatened repeatedly since the law took effect. Independent journalists noted that the law's very existence affected their activities and increased self-censorship, and some said that it was the Government's most effective tool to harass members of the independent press.

The Government continued to subject independent journalists to internal travel bans; arbitrary and periodic detentions (overnight or longer); harassment of family and friends; seizures of computers, office, and photographic equipment; and repeated threats of prolonged imprisonment (*see* Sections 1.d., 1.f., and 2.d.). Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. Dozens of reporters were detained repeatedly. The authorities also placed journalists under house arrest to prevent them from reporting on conferences sponsored by human rights activists, human rights events, and court cases against activists. Independent journalists reported that detentions, threats, and harassment were more severe in the provinces than in the capital. Amnesty International, Human Rights Watch, the Inter-American Press Association, Reporters Without Borders (RSF), and the Committee to Protect Journalists repeatedly called international attention to the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech. In addition, police increasingly tried to prevent independent journalists from covering so-called sensitive events (*see* Section 1.d.).

On February 24, state security officials arrested independent journalist Carlos Alberto Dominguez for participating in a commemoration of the four civilian pilots killed in February 1996 by military aircraft (*see* Section 1.d.).

On February 28, police beat a British and an Italian journalist as they were filming asylum seekers breaking into the Mexican Embassy (*see* Section 1.d.). Castro ordered an investigation into the beating of the pair, and the Foreign Minister apologized to both journalists for their mistreatment.

On March 4, state security officials arrested independent journalist Carlos Brizuela Yera while he and nine other activists were protesting the earlier beating of an independent journalist during which police beat and arrested blind dissident Juan Carlos Gonzalez Leyva (*see* Section 1.d.). In August prosecutors charged Brizuela with "public disorder, contempt for authority, resistance, and disobedience." He had not been tried by year's end and remained in jail.

On March 5, RSF protested the detention of independent journalists Jesus Alvarez Castillo, Lexter Tellez Castro, Carlos Brizuela Yera, Normando Hernandez, and Juan Basulto Morell in various incidents. RSF requested that Interior Minister General Abelardo Colome punish the authorities responsible for the arrests. At year's end, the Government had not responded to that request.

On June 7, a state security official threatened to arrest the president of the Independent Human Rights Center in Santiago de Cuba if he did not cease providing information to foreign radio stations.

On June 14, state security officials beat and arrested independent journalist Carlos Serpa Maceira while he was covering a march by human rights activists on the Isle of Youth (see Section 1.d.).

In October the authorities seized material from a French journalist departing the country, according to RSF.

In December RSF released a report "Cuba, where news is the exclusive reserve of the State," which criticized the complete absence of freedom of the press. RSF also described the constant harassment of independent journalists and the prison conditions faced by independent journalists jailed for trying to practice their profession (see Section 1.c.).

In February 2001, Edel Garcia, director of the Central Norte del Pais press agency, was detained for 12 hours to prevent him from participating in the commemoration of two planes that were shot down by military aircraft in international airspace in 1996. At year's end, Garcia was not in detention, and his trial on charges of collaborating with the enemy, providing information to Radio Marti, and conspiracy to commit crimes and espionage remained pending.

Jesus and Jadir Hernandez of Havana-Press were charged with trafficking in illegal migrants and collaboration with a foreign mission in 2000; their trial was pending at year's end.

During the year, at least five independent journalists were denied the right to emigrate, including Manuel Vazquez Portal, Edel Morales, Jorge Olivera, Dorka Cespedes, and Normando Hernandez.

The authorities often confiscated equipment when arresting journalists, particularly photographic and recording equipment. It was possible to buy a fax machine or computer, payable in dollars; if a receipt could be produced, the equipment usually was not confiscated. However, police seized a telephone and fax machine from independent journalist Angel Pablo Polanco despite the fact that he demonstrated proof of purchase in the country for both items (see Section 1.d.). Photocopiers and printers either were impossible to find on the local market or were not sold to individuals, which made them a particularly valuable commodity for journalists.

Resident foreign correspondents reported that the very high level of government pressure experienced since 2000, including official and informal complaints about articles, continued throughout the year. The Government exercised its ability to control members of the resident foreign press by requiring them to obtain a government exit permit each time they wished to leave the country.

Distribution of information continued to be controlled tightly. Importation of foreign literature was controlled, and the public had no access to foreign magazines or newspapers. Leading members of the Government asserted that citizens did not read foreign newspapers and magazines to obtain news because they did not speak English and had access to the daily televised round tables on issues with which they needed to concern themselves. The Government sometimes barred independent libraries from receiving materials from abroad and seized materials donated by foreign diplomats.

The Government controlled all access to the Internet, and all electronic mail messages were subject to censorship. Access to computers and peripheral equipment was limited, and the Internet only could be accessed through government-approved institutions. Dial-up access to government-approved servers was prohibitively expensive for most citizens. E-mail use grew slowly as the Government allowed access to more users; however, the Government generally controlled its use, and only very few persons or groups had access. The Government opened a national Internet gateway to some journalists, artists, and municipal-level youth community centers, but the authorities continued to restrict the types and numbers of international sites that could be accessed.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications exclusively address conditions in a mission's home country and prior government approval is received. Many missions did not accept this requirement and distributed materials; however, the Government's threats to expel embassy officers who provided published materials had a chilling effect on some missions.

The Government restricted literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline over any freedom of expression. The educational system taught that the State's interests took precedence over all other commitments. Academics and other government officials were prohibited from meeting with some diplomats without prior approval from the

Ministry of Foreign Affairs. The Ministry of Education required teachers to evaluate students' and their parents' ideological character and to place such evaluations in school records. These reports directly affected students' educational and career prospects. As a matter of policy, the Government demanded that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents included denying them advanced education and professional opportunities. President Castro stated publicly that the universities were available only to those who shared his revolutionary beliefs.

Artistic expression was less restricted. The Government encouraged the cultural community to attain the highest international standards in order to sell its work overseas for hard currency. However, in 2000 the Government began implementing a program called "Broadening of Culture" that tied art, socialism, and modern "revolutionary" ideology and legends into its own vision of culture. The Government used the Government media and the schools to impose this vision on the public, particularly the youth.

b. Freedom of Peaceful Assembly and Association.—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be "exercised against the existence and objectives of the Socialist State." The law punishes any unauthorized assembly of more than three persons, including those for private religious services in private homes, by up to 3 months in prison and a fine. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates.

The Government's policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. On September 8, the Government permitted for the fifth consecutive year a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana. A number of activists participated in the procession. Police in Santiago de Cuba warned several dissidents in that city not to attend a procession for Our Lady of Charity (*see* Section 2.c.). There were no reports that processions were denied permits during the year.

The authorities never have approved a public meeting by a human rights group and often detained activists to prevent them from attending meetings, demonstrations, or ceremonies (*see* Section 1.d.). Asked by a foreign correspondent in October whether his government obstructed demonstrations, President Castro responded that he had "no need to control what does not occur." There were unapproved meetings and demonstrations, which the Government frequently disrupted or attempted to prevent. The authorities sometimes used or incited violence against peaceful demonstrators.

On December 10, the authorities monitored, but did not block, a commemoration of International Human Rights Day by more than 50 persons at the home of dissident Martha Beatriz Roque. Police did not impede similar activities at the home of dissident Odilia Collazos and other sites throughout the country. Roque reported that 1,300 people across the country participated in commemorations, most of which the Government monitored but did not obstruct. However, police arrested Rogelio Menendez and two others in Havana to prevent their participation in December 10 ceremonies (*see* Section 1.d.).

In February state security officials threatened to evict an activist from his home because he had used the home for meetings of the Cuban Pro Human Rights Party Affiliated with the Andrei Sakharov Foundation (*see* Section 2.b.). Also in February, state security officers detained prodemocracy activists in different parts of the country to prevent them from staging activities commemorating the 1996 shooting down of two civilian aircraft in international airspace (*see* Sections 1.d. and 2.a.).

On March 13, police arrested seven human rights activists in Nueva Gerona, Isle of Youth, as they conducted a public demonstration calling for democratic reforms and the release of political prisoners (*see* Section 1.d.). Police beat the activists as they were conducting a silent march and took them to a local police station. They were fined and released.

On March 18, state security officials arrested four leaders of the Brotherhood of Blind Cubans to prevent a demonstration against police mistreatment of handicapped street vendors and to call for the release of blind dissident Juan Carlos Gonzalez Leyva (*see* Sections 1.c. and 5). Police released the four after issuing them "official warnings." Earlier, on March 4, police arrested protesters at the public hospital in Ciego de Avila.

On April 1, police called Alberto Fernandez Silva and Humberto Echevarria Herrera of the Cuban Pro Human Rights Party Affiliated with the Andrei Sakharov Foundation to a local police station to warn them that they would be imprisoned if their organization did not cease all meetings, masses, and vigils.

On April 17, police arrested Barbaro Vela Coego and Armando Dominguez Gonzalez, president and vice president, respectively, of the January 6 Civic Movement, to prevent their attendance at a fast in honor of political prisoners. They were held for 2 hours and released (*see* Section 1.d.).

On May 17, police went to the home of Pedro Veliz, president of the Independent Medical School of Cuba, and instructed him to leave Havana to prevent his attendance at ceremonies marking the anniversary of a prerevolutionary political party (*see* Section 1.f.).

On May 25, police beat and arrested four members of the Cuban Pro Human Rights Party Affiliated with the Andrei Sakharov Foundation who were on their way to a Mass in honor of a dissident figure (*see* Section 2.c.). The four were searched, threatened with imprisonment, fined, and released.

On June 1, police arrested nine activists as they departed a human rights course at the Culture and Democracy Institute in Santiago de Cuba (*see* Section 1.d.). They were interrogated and released on June 2.

On June 7, police forcefully removed 17 persons from the home of activist Migdalia Rosado Hernandez, where the group was commemorating the second anniversary of the Tamarindo 34 hunger strike. The police took 14 persons far from their homes and abandoned them by the roadside. Three others were fined and released.

On June 24, police blocked access to the home of activist Francisco Moure Saladriga to prevent a meeting of members of the Cuban Human Rights Party scheduled for that day.

In July state security officials in Santiago de Cuba warned activists Evelio Manteira Barban, Orestes Alberto Alvarez, Manuel de Jesus Nario, Joaquin Jimenez Hernandez, and Carlos Jimenez Cespedes that they would be beaten and arrested if they held events commemorating the sinking of the "13th of March" tugboat.

In early August, state security officials warned opposition activists who were planning protests to coincide with the eighth anniversary of the antigovernment riot that took place in Havana on August 5, 1994 that they would be jailed if they participated in such events. Independent journalist Angel Pablo Polanco and activists Rogelio Menendez Diaz and Marcel Valenzuela Salt were arrested on suspicion that they were organizing protests for August 5 (*see* Section 1.d.).

On September 7, state security officials in Santiago de Cuba warned Orestes Alberto Alvarez Vega not to attend a Mass in honor of Our Lady of Charity (*see* Section 2.c.).

The Government organized marches on May Day and held a rally, "Tribuna Abierta," every Saturday in a different municipality in the country. There was both radio and television coverage of the weekly rally.

The Government generally denied citizens the freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities never have approved the existence of a human rights group. However, there were a number of professional associations that operated as NGOs without legal recognition, including the Association of Independent Teachers, the Association of Independent Lawyers (Agramonte), the Association of Independent Architects and Engineers, and several independent journalist organizations.

Recognized churches (*see* Section 2.c.), the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations were the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who had been established in the country for more than a century, the authorities continued to ignore those groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized NGOs were affiliated at least nominally with or controlled by the Government.

c. Freedom of Religion.—The Constitution recognizes the right of citizens to profess and practice any religious belief within the framework of respect for the law; however, in law and in practice, the Government continued to restrict freedom of religion. In general, unregistered religious groups continued to experience various degrees of official interference, harassment, and repression. The Government's main interaction with religious denominations was through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engaged in active efforts to control and monitor the country's religious institutions, including through surveillance, infiltration, and harassment of religious professionals and practitioners. The Government's policy of permitting apolitical religious activity to take place in government-approved sites remained unchanged; however, citizens worshiping in officially sanc-

tioned churches often were subjected to surveillance by state security forces, and the Government's efforts to maintain a strong degree of control over religion continued.

The Constitution provides for the separation of church and State. In 1991 the Government allowed religious adherents to join the Communist Party. A 1992 constitutional amendment prohibits religious discrimination and removed references to "scientific materialism," (i.e., atheism) as the basis for the State. Members of the armed forces did not attend religious services in uniform, probably to avoid possible reprimand by superiors.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice the Government refused to recognize new denominations; however, the Government tolerated some religions on the island, such as the Baha'i Faith. Unregistered religious groups were subject to official interference, harassment, and repression. The Government, with occasional exceptions, prohibited the construction of new churches, forcing many growing congregations to violate the law and meet in private homes. In October the Government authorized the Greek Orthodox Church to build a church in Havana.

Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the Cuban Council of Churches (CCC) officials, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition, CCC Pentecostal members complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

In 1998 following Pope John Paul II's visit, the country's Roman Catholic bishops called on the Government to recognize the Catholic Church's role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, and the scientific and technical worlds. The Government continued to limit the Catholic Church's access to the media and to the Internet and refused to allow the Catholic Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools.

In September local government authorities, for the fifth consecutive year, allowed the Catholic Church to hold an outdoor procession to mark the feast day of Our Lady of Charity in Havana (*see* Section 2.b.). Although visibly present, state security personnel did not harass any participants or observers as they did in 1998. However, in Santiago, prior to the procession, security police ordered a number of human rights activists not to attend the procession.

In 1998 the Government announced that henceforth citizens would be allowed to celebrate Christmas as an official holiday. (The holiday had been cancelled, ostensibly to spur the sugar harvest, in 1969 and restored in 1997 as part of the preparations for the Pope's 1998 visit.) However, the Government maintained a 1995 decree prohibiting nativity scenes in public buildings.

The Government allowed 9 priests and 12 nuns to enter the country to replace other priests and nuns whose visas had expired. The applications of 60 priests and other religious workers remained pending at year's end.

In the past several years, the Government relaxed restrictions on some religious denominations, including Seventh-day Adventists and Jehovah's Witnesses. Jehovah's Witnesses, once considered "active religious enemies of the revolution," were allowed to proselytize door-to-door and generally were not subjected to overt government harassment, although there were sporadic reports of harassment by local Communist Party and government officials.

Education is secular, and no religious educational institutions are allowed. There were no reports that parents were restricted from teaching religion to their children.

The Government continued to prevent any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official—and exorbitant—retail prices. There was no restriction on the importation of religious literature and symbols if imported by a registered religious group in accordance with the proper procedures. In punishment cells, prisoners were denied access to reading materials, including Bibles (*see* Section 1.c.).

The CCC continued to broadcast a monthly 15-minute program on a national classical music radio station on the condition that the program could not include material of a political character.

State security officials visited some priests and pastors prior to significant religious events, ostensibly to warn them that dissidents were trying to "use the

Church"; however, some critics claimed that these visits were done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed human rights advocates who sought to attend religious services commemorating special feast days or before significant national days, sometimes entering churches and disrupting religious ceremonies.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Government severely restricted freedom of movement. The Government generally did not impose legal restrictions on domestic travel; however, it limited migration to Havana, and initially restricted persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community. For the past several years, state security officials prohibited human rights advocates and independent journalists from traveling outside their home provinces, and the Government also sentenced others to internal exile.

On April 24, a local official in Puerto Padre, Las Tunas province, encouraged the expulsion of Alfredo Dominguez Batista, Rigoberto Pena Hernandez, and Hector Sanchez Garcia from that city for their activities in support of the Varela Project. The two men were harassed but were able to continue their work.

In July state security officials prevented human rights activist Jose Manuel Rivas Medina of the Isle of Pines Human Rights Foundation from departing the Isle of Youth for meetings in Havana. On July 1, two state security agents prevented Rivas Medina from boarding a flight to Havana. The next day, the same officials prevented Rivas Medina from boarding a ferry and threatened to arrest him if he persisted in his efforts to visit Havana.

Decree 217 prohibits persons in other provinces from moving into Havana on the grounds that if internal migration was left unchecked, the city's problems regarding housing, public transport, water, and electrical supplies would become worse; visits to the city were permissible. Police frequently checked the identification of persons on the streets, and if someone from another province was found living in Havana illegally, that person was fined \$12 (300 pesos) and sent back home. Fines were \$40 (1,000 pesos) for those who resided illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it targeted individuals and families predominantly of African descent from the more impoverished eastern provinces.

On June 1, police in Havana province entered the neighborhood of Buena Esperanza to remove persons from the eastern provinces living in the area without authorization. An unknown number of men were removed in trucks on that date, while women and children were given 72 hours to depart (*see* Section 1.d.).

The Government imposed some restrictions on both emigration and temporary foreign travel. The Government allowed the majority of persons who qualified for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delayed or denied exit permits, usually without explanation. Some denials involved professionals who tried to emigrate and whom the Government subsequently banned from working in their occupational fields. The Government refused permission to others because it considered their cases sensitive for political or state security reasons. Resolution 54 denies exit permits to medical professionals until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation, normally applied to recent graduates, was not published officially and may have applied to other professionals as well.

The Independent Human Rights Center in Santiago reported that the Government had denied exit permits to medical professionals Milagro Beaton Betancourt, Nayibe Sarda Sabatel, Angel Edmundo Fernandez Petell, Hector Arias, Raul Rizo, and Ariel Valverde Cuevas. The Government usually denied exit permits to the family members of doctors performing regional medical missions, a practice intended to discourage such personnel from seeking asylum or emigrating.

In July immigration officials denied an exit permit to Elizardo Sanchez Santa Cruz to attend a human rights conference in Guatemala. Sanchez subsequently received an exit permit for a family visit.

In July immigration officials withdrew authorization they had previously granted to independent librarian Gisela Delgado Sablon to receive a human rights award abroad.

In September immigration officials informed Christian Liberation Movement leader Oswaldo Jose Paya Sardinias that he needed authorization from the Minister of Health before they would process his request for an exit permit. Paya is an X-ray equipment technician employed by a state company that falls under the authority of the Ministry of Health. After several months' delay and after pressure from foreign governments, the Government granted Paya an exit permit the day after un-

known persons left threatening placards in front of his home. Paya had requested an exit permit to receive a human rights award abroad for his leadership of the Varela Project (see Section 3). On December 18, the European Parliament awarded Paya the Sakharov Prize for Freedom of Thought.

In September immigration authorities informed dissident Vladimiro Roca that they had up to 30 days to determine whether they would issue an exit permit to “people like him,” apparently referring to his status as a released political prisoner, rather than the 15 days required for most applications. Roca requested an exit permit to receive a human rights award abroad. In December the Government formally denied Roca’s request and refused to explain why his application had been rejected.

On October 4, immigration officials denied independent economist Martha Beatriz Roque’s request for an exit permit to travel to receive a human rights award abroad. Before denying her application, immigration officials forced Roque to return numerous times to produce documents—such as her ration card—not normally required for applications for temporary travel.

In March 2001, immigration officials prevented independent journalist Oswaldo de Cespedes and his family from boarding their flight as political refugees. De Cespedes was informed that his exit permit had been canceled. A migration official later told him that the exit permit was canceled “for interests of the State.” His family was allowed to leave at a later date and de Cespedes was allowed to depart early in the year.

The Government routinely denied exit permits to young men approaching the age of military service, and until they reached the age of 27, even when it authorized other family members to leave. However, in most of those cases approved for migration to the United States under the September 1, 1994, U.S.-Cuban migration agreement, the applicants eventually received exemption from obligatory service and were granted exit permits.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (e.g., merchant seamen who defected while overseas and sports figures who defected while on tours abroad).

Migrants who travel to the United States must pay the Government a total of \$600 per adult and \$400 per child, plus airfare. These government fees for medical exam, passport, and exit visa—which must be paid in dollars—were equivalent to about 5 years of a professional person’s accumulated peso salary and represented a significant hardship, particularly for political refugees who usually were marginalized and had no income. In 1996 the Government agreed to allow 1,000 needy refugees to leave each year with reduced exit fees. However, after the first group of 1,000 in 1996, no further refugees were accorded reduced fees. At year’s end, of the 1,259 persons pending travel, 23 approved refugees remained in the country because they were unable to pay government exit fees for themselves and their families.

The Penal Code provides for imprisonment of up to 3 years or a fine of \$12 to \$40 (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) stated that it regarded any sentence of more than 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 2, 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally if they had not committed a separate criminal offense.

In 1994 the Government eased restrictions on visits by and repatriations of Cuban emigrants. Citizens who established residency abroad and who were in possession of government-issued permits to reside abroad may travel to the country without visas. Persons at least 18 years of age are eligible to travel abroad and may stay abroad up to 11 months. In 1995 the Government announced that emigrants who were considered not to have engaged in so-called hostile actions against the Government and who were not subject to criminal proceedings in their countries of residence could apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, in 1999 the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. It remained unclear whether the Government actually was implementing such a policy.

The Constitution provides for the granting of asylum to individuals persecuted “for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace.” However, the Government has no formal mechanism to process asylum for foreign nationals. Nonetheless, the Government honors the principle of first asylum and provided it

to a small number of persons. There was no information available on its use during the year.

A total of 45 persons applied for refugee status during the year, of which 9 were approved; according to the UNHCR, there were 1,005 refugees in the country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens do not have the legal right to change their government or to advocate change, and the Government retaliated systematically against those who sought peaceful political change. The Constitution proscribes any political organization other than the Communist Party. During the year, the Government amended the Constitution to restrict further citizens' rights to change the Government, making socialism the "irrevocable" basis of the Constitution. While the Constitution provides for direct election of provincial, municipal, and ANPP members, the candidates for provincial and national office must be approved in advance by mass organizations controlled by the Government. In practice a small group of leaders, under the direction of President Castro, selected the members of the highest policy-making bodies of the Communist Party: The Politburo and the Central Committee.

The authorities tightly controlled the selection of candidates and all elections for government and party positions. The candidacy committees were composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDRs and were responsible for selecting candidates, whose names then were sent to municipal assemblies that selected a single candidate for each regional seat in the ANPP. An opposition or independent candidate never has been allowed to run for national office.

In January 1998, the Government held national elections in which 601 candidates were approved to compete for the 601 seats in the National Assembly. According to the official state media, the candidates were voted in by more than 93 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the Government-controlled national media. The Government saturated the media and used government ministries, Communist Party entities, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form. In practice the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

Deputies in the National Assembly, delegates in the provincial assemblies, and members of the Council of State are elected during general elections every 5 years. Municipal elections are held every 2 ½ years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government's structure. In October the Government held elections for local representatives to the municipal assemblies. Government newspapers reported that 95 percent of voters participated in the election, compared with 98 percent in 2000. Slightly less than 50 percent of those elected were incumbents, 22 percent were women, and 6 percent of all candidates were between the ages of 16 and 30. The reports also claimed that nationwide the number of blank ballots remained steady at 2.8 percent and the number of annulled ballots decreased from 3 percent to 2.4 percent.

Although not a formal requirement, in practice Communist Party membership was a prerequisite for high-level official positions and professional advancement.

The Government rejected any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. On May 10, opposition organization All United (Todos Unidos) delivered a petition to the National Assembly proposing a five-point national referendum on political and economic reforms. This effort, known as the Varela Project and led by Christian Liberation Movement leader Oswaldo Paya, was based on Article 88 of the 1976 Constitution, which permits citizens to propose legislation if such proposals are backed by at least 10,000 citizens; the Varela petition had 11,020 signatures. The Varela Project called for an end to limits on freedom of association, an amnesty for nonviolent political prisoners, reduced barriers to private enterprise, electoral reforms, and free elections within a year of the referendum. In an apparent effort to reject the Varela Project without publicly addressing it, the Government mobilized citizens to sign a petition making the socialist character of the Constitution "untouchable." The Government claimed that 99.37 percent of eligible voters signed the Government petition requesting such a modification to the Constitution. The National Assembly unanimously passed the amendment making socialism the "irrev-

ocable” basis of the Constitution. The changes did not rescind the right of citizens to propose legislation, and Varela organizers continued to collect signatures in support of their proposal. Government officials harassed persons working in support of Project Varela, retaliated against some persons who signed that petition, and retaliated against some persons who did not sign the Government petition (*see* Section 1.f.).

Government leadership positions continued to be dominated by men. There were no legal impediments to women voting, holding political office, or rising to political leadership; however, there were very few women or minorities in policymaking positions in the Government or the Party. There were 2 women in the 24-member Politburo and 18 in the 150-member Central Committee. Women held 28 percent of the seats in the 601-seat National Assembly. Although blacks and persons of African descent made up more than half the population, they held only six seats in the Politburo. The National Assembly was approximately 42 percent mulatto or mestizo, 40 percent white, 17 percent black, and 1 percent other.

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

The Government did not recognize any domestic human rights groups or permit them to function legally. The Government subjected domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refused to consider applications for legal recognition submitted by human rights monitoring groups (*see* Section 2.b.).

Dissidents generally believed that most human rights organizations were infiltrated and subjected to constant surveillance. Activists believed that some of the dissidents were either state security officials or were persons attempting to qualify for refugee status to leave the country. It was a crime punishable by 8 to 15 years’ imprisonment publicly to identify suspected state infiltrators.

In its 1997 report, the IACHR examined measures taken by the Government and found that they did not “comprise the bedrock of a substantive reform in the present political system that would permit the ideological and partisan pluralism implicit in the wellspring from which a democratic system of government develops.” The IACHR recommended that the Government provide reasonable safeguards to prevent violations of human rights, unconditionally release political prisoners and those jailed for trying to leave the country, abolish the concept of dangerousness in the Penal Code, eliminate other legal restriction on basic freedoms, cease harassing human rights groups, and establish a separation of powers so that the judiciary no longer would be subordinate to political power (*see* Sections 1.c. and 1.e.).

The Government steadfastly rejected international human rights monitoring. In 1992 the country’s U.N. representative stated that the Government would not recognize the mandate of the U.N. Commission on Human Rights on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged, and the Government refused even to acknowledge requests by the Special Rapporteur to visit the country. On April 19, the UNCHR passed a resolution that expressed concern about the human rights situation in the country and renewed the mandate of the Special Rapporteur on Cuba. At year’s end, the Government had not allowed the Rapporteur to visit Cuba as required by the UNCHR resolution.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The country is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin; however, evidence suggested that racial discrimination occurred frequently.

Women.—Violent crime rarely was reported in the press, and there was no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates reported that violence against women was a problem. The law establishes strict penalties for rape, and the Government enforced the law; however, according to human rights advocates, the police did not act on cases of domestic violence.

The 2000 report of the U.N. Special Rapporteur on Violence Against Women stated that most government officials did not view violence against women as prevalent; however, activists at the grassroots level were attuned to problems of violence affecting women. The Rapporteur urged the Government to take comprehensive steps to enhance the legal protection against violence against women and urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal for persons over 17 years of age; however, pandering or otherwise benefiting from prostitution is a felony. Prostitution increased greatly in recent years. Press reports indicated that tourists from various countries visited specifi-

cally to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as "jineteras") still were visible in Havana and other major cities during the year. Police obtained early success in their efforts by stationing officers on nearly every major street corner where tourists were present. Some street police officers were suspected of providing protection to the jineteras. Most observers believed that the Government clamped down on prostitution to combat the perception that the Government promoted sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them. The U.N. Special Rapporteur's report recommended that the Government dismantle the centers and find "other mechanisms that do not violate the rights of the prostitutes." There was no information available regarding whether or not the Government dismantled these centers.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women were subject to the same restrictions on property ownership as men. The law provides up to 1 year of maternity leave and grants working mothers preferential access to goods and services. Approximately 40 percent of all women worked, and they were well represented in many professions. According to the Cuban Women's Federation (FMC), in 2000 women held 33 percent of managerial positions. The FMC also asserted that 11,200 women had received land parcels to cultivate, that more than 561,000 women had begun working as agricultural workers, and that women devoted 34 hours a week to domestic work, approximately the same number of hours they spent working outside the home.

Children.—The Constitution provides that the Government protect family, maternity, and matrimony. It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. The law requires school attendance until the ninth grade, and this law generally was respected in practice. Education was free, but it was grounded in Marxist ideology. State organizations and schools were charged with the integral formation of children and youth. The national health care system covered all citizens.

There was no societal pattern of abuse of children. Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If the child was found bothering tourists a second time, police frequently fined the child's parents. Child prostitution was a problem (*see* Section 6.f.).

Persons with Disabilities.—The law prohibits discrimination based on disability, and there were few complaints of such discrimination.

On March 18, state security officials arrested four leaders of the Brotherhood of Blind Cubans to prevent a demonstration that opposed police mistreatment of handicapped street vendors and that called for the release of blind dissident Juan Carlos Gonzalez Leyva (*see* Sections 1.d. and 2.b.).

In April the Government-affiliated National Association of the Blind expelled Tomas Arquimedes Quintana for violating the norms of the organization by "acting in contradiction to the goals of a socialist state." Quintana is a member of the Cuban Human Rights Foundation and of the Independent Brotherhood of the Blind.

There are no laws that mandate accessibility to buildings for persons with disabilities. In practice buildings and transportation rarely were accessible to persons with disabilities.

National/Racial/Ethnic Minorities.—Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurred and was acknowledged publicly by high governmental officials, including President Castro during remarks at the World Conference on Racism in South Africa. President Castro acknowledged that the revolution had not eradicated racism. There were numerous reports of disproportionate police harassment of black youths. Evictions, exacerbated by Decree 217, primarily targeted individuals and families who migrated to Havana from the eastern provinces, which were traditionally areas of black or mixed-race populations (*see* Section 2.d.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society took precedence over individual workers' preferences. Established official labor organizations had a mobilization function and did not act as trade unions, promote worker rights, or protect the right to strike. Such organizations were under the control of the State and the Communist Party, which also managed the enterprises for which the laborers worked. Because all legal

unions were government entities, antiunion discrimination by definition did not exist.

The Communist Party selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibited independent unions, and none were recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on the freedom of association and the right to organize. Those who attempted to engage in unofficial union activities faced government harassment.

Workers may lose—and many have lost—their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations were created but functioned without legal recognition and were unable to represent workers effectively or work on their behalf.

On January 3, police arrested Milagros Zeneida Morales of the Independent Workers Labor Union on charges of recruiting members for a counterrevolutionary organization (*see* Section 1.d.).

In late March, police instructed Lidia Rodriguez to report on any telephone calls made by independent labor organizers Luis Sergio Nunez and Gabriel Sanchez of the Independent National Labor Organization (*see* Section 1.f.).

On June 27, a state security official informed labor activist Reinaldo Rodriguez Camejo that he would soon lose his job as a teacher at a technical institute. In late July, the institute cancelled his 2-year contract and informed him that he would not be rehired.

On July 1, state security officials ordered independent labor organizer Leodegario Jimenez Ojeda, president of the Independent Medical School in Santiago and a member of the Independent National Labor Confederation, to their office, where they interrogated him and accused him of participating in counterrevolutionary activities and having links to “terrorists” in Miami.

In July the ILO’s Committee on Freedom of Association cited several instances of government persecution of members of the Single Council of Cuban Workers and called on the Government to allow formation of independent trade unions.

The CTC is a member of the Communist World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is almost the only employer in the country. The law prohibits strikes; none were known to have occurred. The 1995 Foreign Investment Law denies workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms managed to negotiate exceptions, the Government required foreign investors to contract workers through state employment agencies, which were paid in foreign currency and, in turn, paid workers very low wages in pesos. Typically workers received 5 percent of the salary paid by the companies to the State. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consulted with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen “deserved” to work in a joint enterprise.

There were no functioning export processing zones, although the law authorizes the establishment of free trade zones and industrial parks.

c. Prohibition of Forced or Bonded Labor.—Neither the Constitution nor the Labor Code prohibits forced or bonded labor. The Government maintained correctional centers where it sent persons for crimes such as dangerousness. Prisoners held there were forced to work on farms or building sites; for example, doing construction, agricultural work, or metal working. The authorities often imprisoned internees who did not cooperate.

The Government employed special groups of workers, known as “microbrigades,” who were reassigned temporarily from their usual jobs to work on special building projects. These microbrigades were increasingly important in the Government’s efforts to complete tourist and other priority projects. Workers who refused to volunteer for these jobs often risked discrimination or job loss. Microbrigade workers reportedly received priority consideration for housing assignments. The military assigned some conscripts to the Youth Labor Army, where they served a 2-year military service requirement working on farms that supplied both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government required children to work without compensation. All students over age 11 were expected to devote 30 to 45 days of their summer vacation to farm work, labor-

ing up to 8 hours per day. The Ministry of Agriculture used “voluntary labor” by student work brigades extensively in the farming sector. According to school rules, refusal to do agricultural work could affect the student’s ability to continue studying at the institution.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum working age is 17 years. However, the Labor Code permits the employment of 15- and 16-year-old children to obtain training or to fill labor shortages.

e. Acceptable Conditions of Work.—The CETSS sets the minimum wage, which varies by occupation. For example, the minimum monthly wage for a maid was \$6.60 (165 pesos); for a bilingual office clerk, \$7.60 (190 pesos); and for a gardener \$8.65 (216 pesos). The Government supplemented the minimum wage with free education, subsidized medical care (daily pay is reduced by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for about 1 week per month). However, even with these subsidies, the minimum wage did not provide a decent standard of living for a worker and family. Corruption and black market activities were pervasive. The Government rationed most basic necessities such as food, medicine, clothing, and cooking gas, which were in very short supply.

The Government required foreign companies in joint ventures with state entities to hire and pay workers through the State (*see* Section 6.b.). Human Rights Watch noted that the required reliance on state-controlled employment agencies effectively left workers without any capacity directly to negotiate wages, benefits, the basis of promotions, or the length of the workers’ trial period at the job with the employer. Foreign companies paid the Government as much as \$500 to \$600 per worker per month while the workers received only a small fraction of that in pesos from the Government.

The standard workweek was 44 hours, with shorter workweeks in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls usually were inadequate, and the Government lacked effective enforcement mechanisms. Industrial accidents apparently were frequent, but the Government suppressed such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in persons through or from the country and provides for penalties for violations, including a term of 7 to 15 years’ imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years’ imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger in engaging in such smuggling. These provisions were directed primarily at persons engaging in organized smuggling of would-be emigrants. In addition, the revised code made it illegal to promote or organize the entrance of persons into or the exit of persons from the country for the purpose of prostitution; violators were subject to 20 to 30 years’ imprisonment.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. It is illegal for a person under 17 years of age to engage in prostitution. The police enforced this law during the year as part of a general crackdown on prostitution; however, the phenomenon continued as more cabarets and discos opened for the growing tourist industry, which made it easier for tourists to come into contact with child prostitutes.

DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. A president, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, was head of state. The Prime Minister was Pierre Charles of the Dominica Labour Party (DLP), which prevailed in generally free and fair elections in January 2000, and which had a majority coalition in the Parliament. The judiciary was generally independent.

The Dominica Police—the only security force—was controlled by and responsive to the democratically elected government. There were occasional allegations of abuse by the police.

The country's primarily agrarian, market-based economy depended on earnings from banana exports, historically sold in the European market. The country has a population of approximately 72,000. Revenues from the banana industry were declining with the phase-out of its protected trade status with the European Union, and the Government's efforts to market the island as an ecotourism destination had mixed results. Faced with falling revenue, instead of making public sector cuts, the Government imposed new taxes and levies.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Prison conditions were poor; violence against women and children was a problem; and there were instances of discrimination against indigenous Carib Indians and societal discrimination against female Caribs in mixed marriages. Dominica was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, but there were some complaints of use of excessive force by the police.

The police had an Internal Affairs Department to investigate public complaints against the police and to provide counseling to police officers. The unit received 55 complaints during the year, of which 22 alleged use of excessive force. Of these, the unit sent 4 to Magistrate's Court, issued 2 warnings, and dismissed 3 for lack of evidence; 13 cases were pending investigation or trial. During the year, several officers attended human rights training courses in Trinidad and other locations.

Prison conditions were poor. Overcrowding and unsanitary conditions continued to be problems in the prison facility, which held 223 prisoners at year's end. The prison provided work therapy, music and sports programs, educational opportunities, and counseling for inmates. Prisoners continued to complain about the poor quality of prison food; however, prison officials noted that prisoners have access to fresh pork from pigs raised at the prison. Pretrial detainees were housed with convicted prisoners, due to overcrowding and a lack of sufficient holding cells. Female prisoners were segregated from male prisoners, and juveniles were segregated from adult inmates.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires that the authorities inform persons of the reasons for arrest within 24 hours after arrest and bring the detainee to court within 72 hours. This requirement generally was honored in practice; however, if the authorities were unable to bring a detainee to court within the requisite period, the detainee could be released and rearrested later.

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

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and it was generally independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants were presumed innocent until proven guilty, were allowed legal counsel, and had the right to appeal. Courts provided free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; government authorities generally respected these prohibitions, and violations were subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the right of free expression, and the Government generally respected this right in practice. The political opposition openly criticized the Government.

The print media consisted of four private newspapers and political party journals; all published without censorship or government interference. The principal radio station was state-owned and had a government-appointed board. There was also an independent radio station owned by a private company. Citizens had access to independent news sources through cable television and radio reception from neighboring islands.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

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

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief by the authorities or simply enforcement of laws against marijuana, which was used as part of Rastafarian religious practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. The Government may revoke passports if subversion is suspected but had not done so in the past several years.

The Government had not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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 unicameral legislative assembly, called the House of Assembly, was composed of 21 parliamentary representatives and nine senators. The representatives were elected by popular vote. The President appoints the senators; five senators are chosen with the advice of the Prime Minister and four with the advice of the opposition leader. Elections must be held at least every 5 years, although the Prime Minister can call elections at any time.

In January 2000, the Dominica Labour Party won 10 seats in generally free and fair elections, defeating the United Workers' Party (UWP) which had held power since 1995. DLP leader Roosevelt P. "Rosie" Douglas forged a majority coalition of 13 seats out of the 21 elected seats in Parliament, with the Dominican Freedom Party, holder of 2 seats, and 1 former UWP parliamentarian who changed party affiliation to join the DLP government. Douglas died in office in October 2000, and the former Minister of Communication and Works, Pierre Charles, became Prime Minister.

There were no impediments in law or in practice to the participation of women in leadership roles in government or political parties. There were 6 women in the 30-seat legislature; 2 elected parliamentary representatives and 4 senators appointed by the President. There were no women in the Cabinet.

There were no impediments in law or in practice to the participation of Carib Indians in national political life. The Parliamentary Representative for Indigenous People was a Carib Indian; he served concurrently as the Prime Minister's Parliamentary Secretary with responsibility for Carib affairs.

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

There were no government restrictions on the formation of local human rights organizations, although no such groups existed. Several advocacy groups, such as the Association of Disabled People, the Dominican National Council of Women, and a women's and children's self-help organization, operated freely and without govern-

ment interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities generally respected in practice.

Women.—Domestic violence cases were common. Government and nongovernmental organizations (NGOs), including religious organizations, tried to address this problem. There was no family court to deal specifically with domestic violence issues. Women could bring charges against husbands for battery, and both the police and the courts prosecuted cases of rape and sexual assault, but there were no specific spousal abuse laws. All rape cases were handled solely by female police officers. The Department of Labor established a crisis response mechanism to assist women who were victims of domestic violence. The Welfare Department of the Ministry of Community Development assisted victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reported all cases of abuse to the police.

In December 2001, a Protection Against Domestic Violence Act was enacted that allows abused persons to appear before a magistrate without an attorney and request a protective order. The court may also order that the alleged perpetrator be removed from the home in order to allow the victims, usually women and children, to remain in the home while the matter was being investigated. Police enforcement of protective orders increased after enactment of this act and after officers received training in dealing with domestic abuse cases. The Dominica National Council of Women, an NGO, taught preventive education about domestic violence and maintained a shelter where counseling and mediation services were available daily. Due to a shortage of funding, the organization could only permit persons to stay at the shelter for several days at a time; however, if needed, further housing was provided in private homes for up to 3 weeks. During the year, the Catholic Church held a domestic violence symposium attended by approximately 400 persons.

Sexual harassment was a problem.

While there was little open discrimination against women, property ownership continued to be deeded to "heads of households," who were usually males. When the male head of household died without a will, the wife could not inherit the property or sell it, although she could live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent. According to the Labor Department, many women in rural areas found it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

Children.—The law stipulates that the Government should protect the rights of children to education and health care. Education was compulsory through the age of 16, and primary health care was available throughout the island.

Various laws enumerate children's rights, but their enforcement was hampered by lack of staffing in government agencies. There were nine staff members in the social welfare office that handled all welfare problems, including complaints of child abuse. According to the Welfare Department, there were 189 cases of child abuse, compared with 155 in 2001. There was an increase in the number of child abuse cases in the Carib reservation.

Although the maximum sentence for sexual molestation (rape, incest) was 25 years' imprisonment, the normal sentence given was 5 to 7 years except in the case of murder. The age of consent for sexual relations is 16 years.

Persons with Disabilities.—Beyond the general protection of the Constitution, there was no specific legislation to address problems facing persons with disabilities. However, the labor laws permit authorization of employment of a person with disabilities for less than the minimum wage, in order to increase opportunities for employment of such persons (see Section 6.e.). There was no requirement mandating access for those with disabilities.

Indigenous Persons.—There was a significant Carib Indian population, estimated at 3,400 persons, most of whom lived on a 3,782-acre reservation created in 1903 and expanded in 1997. About 65 percent of the Carib population were between the ages of 18 and 35. There was a three-person police station on the reservation; generally several of the police assigned there were Carib Indians. School, water, and health facilities available on the Carib reservation were rudimentary but similar to those available to other rural citizens; however, there was no secondary school on the reservation. Most Carib Indians engaged in farming, fishing, and handicrafts. Unemployment was believed to be higher than in rest of the country, while the average income was below the national average. The Government built a Heritage Vil-

lage to showcase Carib culture; at year's end the buildings were complete, but it was not yet open to the public.

The reservation is governed by the 1978 Carib Act. Carib Indians over the age of 18 who reside there were eligible to vote for the Chief and six members of the Council of Advisors (they also were eligible to vote in national elections). Separate elections for council members and the Chief were held every 5 years. According to the Carib Act, the Council must meet once a month, determine the Chief's itinerary, and publish council meeting agendas in the Government Gazette.

Building permits for homes within the reservation were obtained from the Carib Council and were available only to Carib Indians. As a result, Carib women who were married to, or who lived with, non-Carib men were often advised to put the home in their names. Until 1979 the Carib Act allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law changed, practice was not yet in keeping with the law. An estimated 25 percent of the Carib Indian population was believed to be in mixed marriages or relationships.

One of the major issues facing the Carib Indians was the increasing encroachment on their territory by farmers, particularly on the southern side of the reservation. The 1903 land grant, on which the Carib Indians based their claim to the land, did not clearly delineate the reservation boundaries. Another issue for the Carib Indians was their difficulty in obtaining bank financing. As all land on the reservation was held communally, individuals were not able to pledge the land as collateral for loans.

In June the Government ratified International Labor Organization (ILO) Convention No. 169, concerning indigenous and tribal people.

Section 6. Worker Rights

a. The Right of Association.—All workers had the legal right to organize, to choose their representatives, and to strike. Unions represented less than 10 percent of the total work force, but approximately 55 percent of government workers were unionized. However, the banana, coconut, and citrus fruit industries as well as port services were deemed “essential services,” which effectively prohibited workers in these sectors from going on strike. The ILO considered this definition overly broad. The ILO repeatedly urged the Government to amend legislation so that restrictions on the right to strike would only be imposed in the case of services limited to those the interruption of which would endanger the life, personal safety, or health of the whole or part of the population, or in the case of an acute national crisis. The ILO noted that existing legislation made it possible to stop a strike by compulsory arbitration and empowered the Minister to refer disputes to compulsory arbitration if in his or her opinion it concerns serious issues. The Government did not take any action to amend this legislation.

The law prohibits antiunion discrimination by employers, and judicial authorities enforced union rights. In addition, employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the Labor Inspection Office lacked sufficient personnel to carry out its duties.

All unions were independent of the Government. While there were no direct ties, members of certain political parties dominated some unions. In June 2001, the Public Service Workers Union circulated a proposal to create a “congress of unions” as an umbrella organization, but it drew no response from other unions or employee associations.

Unions may affiliate with various international labor bodies.

b. The Right to Organize and Bargain Collectively.—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining was widespread in the nonagricultural sectors of the economy, including in government service, and there was also recourse to mediation and arbitration by the Government.

In June police officers staged a sickout that briefly crippled operations around the island. The action was taken to draw attention to a decade-long dispute between the Government and the Police Welfare Association over pension benefits. On July 3, hundreds of private sector and unemployed workers demonstrated to protest the new budget. Government workers followed suit on July 9, effectively shutting down most government operations for the day. On both occasions, members of the police force staged additional sickouts in “sympathy” with other protesters. Further demonstrations and sickouts were held in September, causing the temporary (but unanticipated) closure of the airports. Unions reported that the demonstrations were

peaceful, and there was no difficulty in obtaining permits for the demonstrations in advance.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. The ILO has asked the Government to repeal the National Service Act, on the grounds that it is conducive to forced labor for economic development; the Government took no action to do so.

d. Status of Child Labor Practices and Minimum Age for Employment.—Two acts prohibit employment of children, but define “child” differently, one as under age 12 and the other under age 14. During the year, the Government prepared legislation to harmonize these two laws and to set the minimum legal age for employment at 16 years.

e. Acceptable Conditions of Work.—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) was as low as \$0.37 (EC\$1.00) per hour if meals were included. However, minimum wages for most workers fell in a range between \$0.74 (EC\$2.00) per hour for tourist industry workers to \$1.11 (EC\$3.00) per hour for occupations such as shop clerks. Minimum wages were not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earned more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels, but the Government had not yet acted upon these recommendations at year’s end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a person with disabilities at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks’ paid vacation per year. The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. Inspectors from the Environmental Health Department of the Ministry of Health conduct health and safety inspections. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers had the right to remove themselves from unsafe work environments without jeopardizing their continued employment.

f. Trafficking in Persons.—There were no laws that specifically address trafficking in persons.

The country had an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$75,000 (EC\$200,000) to \$100,000 (EC\$270,000) for a family of up to four persons. This process reportedly facilitated the illegal immigration of persons from China and other countries to North America where, in some cases, they may be forced by the criminal organizations that provided the funds to work under conditions similar to bonded labor to repay their debt. The Government refused to end the economic citizenship program, despite complaints from the Governments of Canada and Australia. Since the beginning of the economic citizenship program in 1996, 662 applicants received citizenship. Approximately 167 persons, primarily from Russia or China, purchased economic citizenship in 2001; of these, only about 46 persons actually resided in the country.

DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral congress. President Hipolito Mejia of the Dominican Revolutionary Party (PRD) took office in August 2000 after a generally free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also controlled the Senate and held the most seats in the Chamber of Deputies. The Constitution provides for an independent judiciary; however, interference from outside forces, including the executive branch, remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the armed forces (army, air force, and

navy) formed the security forces. The military's domestic responsibilities included maintaining public order and protecting traffic, industry, commerce, persons, and property. The police were under the Secretary of the Interior and Police; the military was under the Secretary of the Armed Forces; and the DNI and the DNCD, which had personnel from both the police and the military, reported directly to the President. 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 or control. Members of the National Police and the military committed a number of human rights abuses.

The market-based economy, once heavily dependent on sugar and other agricultural exports, continued to diversify. The country has a population of approximately 8.5 million, excluding an estimated 1 million undocumented Haitians. Tourism, telecommunications, and Free Trade Zone (FTZ) exports were major sources of foreign currency and employment, notwithstanding recent decreases in the growth of tourism and FTZs. Remittances from abroad surpassed \$1.9 billion per year. Economic growth, which exceeded 7 percent per year from 1996 through 2000, was 4.5 percent for the year. Unemployment was estimated at 16 percent. Income distribution in the country was highly skewed.

The Government's human rights record remained poor; although there were significant improvements in some areas, serious problems remained. The number of extrajudicial killings dropped due in large part to the replacement of Police Chief Candelier with General Jaime Marte Martinez. Nonetheless, members of the security forces continued to commit some unlawful killings. The police and—to a lesser degree—the military tortured, beat, or otherwise abused detainees and prisoners. Police on several occasions used excessive force to disperse demonstrators. In a change from previous years, the Government began regularly to refer cases of police and military abuse to the civilian courts, instead of holding nontransparent proceedings in police or military tribunals. Prison conditions ranged from poor to harsh. Some prisoners died in custody due to negligence. Police arbitrarily arrested and detained suspects and suspects' relatives. While the judiciary continued to consolidate its independence and improve the efficiency of the courts, lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists at times practiced self-censorship. The Government restricted the movement of, and forcibly expelled, some Haitian and Dominican-Haitian migrants. Violence and discrimination against women; prostitution, including child prostitution; abuse of children; discrimination against persons with disabilities; discrimination against and abuse of Haitian migrants and their descendants; and child labor were serious problems. There continued to be reports of forced labor. Many workers continued to face unsafe labor conditions. Trafficking in persons was a serious problem. The Dominican Republic was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government officials; however, members of the security forces committed 126 killings that were unlawful, unwarranted, or involved deadly use of force—a significant drop from 2001, during which more than 250 extrajudicial killings occurred.

This number includes some civilians who were killed in legitimate exchanges of gunfire with police, as well as “encounter” killings staged by the police. Despite significantly enhanced cooperation with civilian authorities under the guidance of the new National Police Chief, it remained difficult to quantify the exact number of police killings, because police infrequently documented citizen killings in accordance with minimum investigation or crime scene standards, and mid-level officers sometimes failed to cooperate in investigations ordered by civilian authorities (*see* Section 1.e.).

Human rights organizations stated that the police employed far less unwarranted deadly force against criminal suspects than in previous years, although unwarranted vigilantism persisted on a less-than-deadly level. Criminals who refused to pay police “commissions” or bribes to ignore criminal activity were sometimes beaten or shot in an appendage rather than killed. Lack of basic education, poor training, and weak discipline were still endemic among members of the police force, and directly contributed to the killings that occurred. These problems were aggravated by low pay and the fact that there was no coherent policy on the use of deadly force or rules of engagement by the police. Additionally, the lack of professional and trans-

parent investigation of the circumstances in which police killed citizens in “exchanges of gunfire” still led to occasional impunity for such killings. Finally, there was a lack of meaningful training in human rights as applied to police work; however, under the leadership of the new police chief, the National Police took steps to address this problem. For example, in August a 4-day program trained 15 members of the National Police and 15 prominent members of civil society, who were to conduct human rights and dignity workshops for members of the National Police.

In the majority of police killings, the police claimed that the deaths resulted from an exchange of gunfire in the course of an arrest. Police asserted that the deaths of so-called delinquents resulted from shoot-outs requiring the police to act in self-defense. A number of eyewitness accounts matched police assertions; others did not. Staged “encounter” killings still occurred.

In March armed forces Private Eduardo Ortiz Delgadillo (then assigned to the Metropolitan Transit Authority, headed by former National Police Chief Candelier) shot and killed bus driver Flabio Minaya Padilla, whose death sparked violent protests and condemnation by a transport union. The authorities charged Ortiz, and his trial was pending at year’s end in a civilian court.

In April police officer Carlos Manuel Ramirez Herrera shot and killed 19-year-old Juan Rafael De los Santos during a protest that took place in the Moscu neighborhood of San Cristobal. Following the shooting, residents attempted to burn the residence of and lynch a municipal official, Jose Mercedes Corporan, whom they blamed for instigating the death of De los Santos. Police Chief Marte designated a commission to investigate the death of De los Santos and events surrounding the demonstrations. The commission determined that Ramirez should be removed from the police force; he was fired and was awaiting trial at year’s end.

On May 16, members of the armed forces election-day police in Jarabacoa shot and killed two Partido Reformista Social Cristiano (PRSC) activists in a shoot-out in front of approximately 50 witnesses. On August 6, Attorney General Bello Rosa concluded an investigation into the killings and recommended that those responsible be submitted to civilian justice. Several days later, President Mejia ordered that 11 members of the military implicated in the crime be prosecuted in civilian criminal court, based on a recent Supreme Court precedent limiting military tribunals’ authority to decide such cases to wartime. The authorities accused Army Sergeant Edruy Reyes Ramirez of committing the murders and charged Second Lieutenant Roger Antonio Acevedo Martinez with being an accomplice. The Attorney General further recommended that two colonels, Santo Augusto Nunez Francisco and Pedro Antonio Caceres Chestaro, be charged with trying to cover up the crime and mislead investigators. At year’s end, the case was still in the investigative phase.

Also in May, police Lieutenant Juan Bautista Berroa and two police officers in Bonao killed 22-year-old Alejandro Pena Diaz, whom they had taken prisoner, in the back of a truck. The police officers then threw his body from the vehicle in a staged escape attempt. The authorities dishonorably discharged the two police officers responsible for the killing, arrested them, and held them to face civilian trial, set for January 2003.

In several neighborhoods in Santo Domingo, civil society held protests against police violence. The police at times forcibly dispersed demonstrators using tear gas and weapons; on August 22, during a protest in the Capotillo section of Santo Domingo, Alberto Santos Veloz was killed by a stray bullet and 14 persons were injured (*see* Sections 2.b. and 6.b.).

In September a police captain, police Lieutenant Charlie Rodriguez, a sergeant, and a corporal all confessed to being part of a gang that kidnaped and killed Victor Augusto (Franklin) Feliz Mendez. The police also held 19-year-old Priscilla Diaz Infante in custody; she was the last surviving civilian member of the group of seven that police accused of murdering Feliz Mendez. The other civilians involved in the case, Luciano Antonio Matos Diaz and Deiva Giner Castillo, died under questionable circumstances shortly after Feliz Mendez’s murder; one in an exchange of gunfire with police, the other by suicide. At year’s end, a commission ruled that the civilian killed by police died in a legitimate exchange of gunfire while attempting to evade arrest.

A significant number of deaths occurred in custody due to negligence by prison authorities (*see* Section 1.c.).

According to nongovernmental organizations (NGOs) active along the border, two Haitian migrants were killed by military personnel while attempting to enter the country (*see* Section 2.d.).

In the May 2001 killing of 26-year-old Ruben Dario Paniagua in the Capotillo neighborhood, the civilian trial of four persons alleged to have been involved in the killing was scheduled for February 2003. Bienvenido Cross, a civilian with police ties, police officer Franklin Tejada, police officer Carlos Feliz Mateo, and armed

forces member Warren Antonio Matos, were in jail awaiting trial; the authorities released the other persons detained in connection with this case.

In the June 2001 killing of 37-year-old Carmelo del Rosario, the authorities removed police Lieutenant Pedro Encarnacion Baez from duty and sent the case to the civilian courts. Although jailed in Higuey, Encarnacion Baez failed to appear at several hearings, the most recent of which was on September 26.

In the July 2001 police killing of Wendy Altagracia Gatón Tejada in the Herrera district, the authorities jailed police officer Demetrio Marte Leonardo and scheduled him to be tried in civilian criminal court in February 2003. The authorities sent three other officers charged in this killing to a military court in 2001; there was no public information regarding the status of their cases.

In the case of police Private Francisco Reyes Santana, known as "Tyson," who was accused of killing 18-year-old Pedro Manuel Contreras in September 2001, the Supreme Court ruled in December 2001 that Tyson and codefendant police Sergeant Medina Medina would be tried in civilian criminal court. At year's end, both were in custody awaiting trial, but no trial date had been set.

There were no developments in the cases of the police officers involved in the killing of Johnny Perdomo Santo in November 2000, Emilio Jose Matias and Lauri Mendez Sena in September 2000, the 30-year-old Haitian killed in August 2000, the six Haitians and one Dominican shot in July 2000, the killing of Juan Expedito Garcia in July 2000, the killing of Juan Jose Urena in July 2000, or the killing of Antonio Lora Fernandez in April 2000.

According to human rights groups, in the 2000 case involving three individuals shot in Najayo Prison in San Cristobal, the officers involved never were tried in either a police tribunal or a civilian court.

There were no developments in the appeal of the 30-year sentences of retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and Luis Emilio de la Rosa Beras, convicted in 2000 for the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. A fourth defendant, General Salvador Lluberés Montas, was to stand trial in 2001, but the trial did not take place. Lluberés Montas failed to appear at 11 hearings in 2001 and at 3 additional hearings during the year. Although Lluberés Montas was allegedly near death due to illness, various human rights groups charged that he was living comfortably in his villa in Casa de Campo.

b. Disappearance.—There were no reports of politically motivated disappearances; however, the Dominican Solidarity Center reported that since the 1999 privatization of the sugarcane industry, more than 150 union organizers or members had disappeared (*see* Section 6.e.).

An instruction judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in May 1994. The judge excluded two others, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in October 2001 the victim's family appealed this decision; that appeal and Matos Villanueva's contest of the decision to try him in criminal court remained pending in Santo Domingo's Court of Appeal at year's end. There was no action during the year on the family's complaint to the Inter-American Commission on Human Rights (IACHR).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and other forms of physical abuse, and for the first time in years senior police officials took this prohibition seriously and regularly investigated reports of torture and abuse; however, some security forces personnel, primarily mid-level and lower ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem of physical abuse. Human rights groups and the local press reported repeated instances of physical abuse of detainees while in custody, including various forms of torture, beatings, and sexual abuse.

According to human rights organizations, the National Police, the DNCD, and prison officials all used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions, and a method called "roasting the chicken" in which the victim was placed over hot coals and turned. Human rights advocates described another form of abuse that guards reportedly used against prisoners called "the toaster," where prisoners were laid, shackled hand and foot, on a bed of hot asphalt for the entire day and beaten with a club if they screamed. Police also were described as using a practice called "golpe de pollo" in which they beat a person's ears until they bled. The Dominican Com-

mittee for Human Rights stated that in the Fortaleza San Felipe prison in Puerto Plata, some prisoners were tortured by pulling off their finger nails, and another prisoner at San Felipe was hung from the cell wall for days by chains that bound his wrists and left scars. Another "new" torture method was reported in June, in which prison officials enclosed detainees in water cisterns for lengthy periods. In Azua, according to the Dominican Human Rights Commission, a youth named Robelin Lopez was branded in the buttocks with a hot iron in an attempt to elicit a confession.

Homosexual and transvestite detainees reported to gay rights advocates that during detention the police held them in a darkened room and gave them the alternative of performing fellatio on guards or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police used the prospect of being locked in with the most dangerous prisoners as a threat.

In June two of three youths detained for allegedly carving up victims in satanic rites, Jairo Luis Matos and Gustavo Tejada de la Rosa, accused police authorities of torturing them in an attempt to elicit confessions. Police in the Fugitive Search and Capture Unit, located in the Parque Mirador Norte area of Santo Domingo, asphyxiated the young men with black plastic bags and beat them in an attempt to obtain confessions. This unit previously had been implicated in acts of torture aimed at eliciting confessions. In April the president of the Dominican Human Rights Commission reported that the Commission received multiple complaints of torture regarding this police unit.

Also in June, the authorities suspended from duty two National Police captains from the Robbery and Monetary Crimes unit after they were accused of torturing 21-year-old Carlos Javier Mendez to draw out a confession for his alleged participation in a robbery. A special investigative commission composed of members of the police and justice sector determined that captains Ramon Antonio Marte Reyes and Luis F. Sanchez Mejia should be tried in civilian court for violating law 309 by committing acts of torture. The two captains were fired and at year's end were released on bail awaiting trial. In addition, the authorities suspended Assistant District Attorney Diomaris Cepeda Diaz for 2 weeks without pay for negligence.

In October judicial authorities decided that the case against suspended police Colonel Francisco Beras Santos, who was charged with the torture and sexual violation of a woman, should be heard in criminal court. The colonel was accused of having forced 34-year-old Elizabeth Martinez Perez to have oral sex with him before he would allow her to go free. Police Chief Marte sent the evidence against the colonel to be presented in a civilian court, rather than a military tribunal. Beras appealed his case in three courts, but each court rendered the decision that there was sufficient evidence to incriminate him. At year's end, he was in prison awaiting the conclusion of his criminal trial.

The National District Prosecutor's office program of placing lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to ensure that detainees' rights were respected (*see* Section 1.d.) remained largely limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There was some evidence that assistant prosecutors at times acquiesced in traditional police practices—as in the torture case of Carlos Javier Mendez—rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country did not assume strong roles in managing criminal investigations and ensuring the rights of suspects.

Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. However, until recently, these provisions were not known fully or applied by prosecutors and judges. There were repeated calls by human rights groups for civilian trials of officials charged with abuse and torture, and senior executive branch officials responded favorably during the year. New abuse and torture cases were remanded to civilian criminal courts as they arose. However, submission to civilian judicial authority was sometimes still contested by mid-level officers (*see* Section 1.e.).

During the year, the authorities dismissed numerous government employees for links with smuggling groups (*see* Section 6.f.). In one instance, Dominican Consul in Cap Haitien, Guillermo Radhames Garcia, was removed from his post after the Directorate of Migration accused him of personally transporting 16 Chinese nationals over the Dajabon border into the country. Even though the Supreme Court recognized that there was sufficient evidence to incriminate Garcia, it later dropped the case against him at the request of the Attorney General, because Garcia had been sworn in as the La Vega representative to the Chamber of Deputies while confined

in Dajabon. The Court said it was the Chamber of Deputies' responsibility to censure Garcia.

Police officers also were fired for violent attacks, extortion, and drug use. Significant problems remained because the authorities had not undertaken serious efforts to vet police recruits. Many persons with prior criminal records reportedly were incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army.

Human rights courses were offered in the training curriculums for military and DNCN enlisted personnel and officers. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. However, monitoring and sanctioning systems for abuses of human rights remained ineffective.

The three officers accused of being involved in 2000 of torture and abuse of at least nine minors in the National District were not tried by police tribunals or the civilian courts. An investigative judge in the Eighth Penal Court, who was assigned to investigate the case in the civilian courts, ruled that these courts did not have jurisdiction over a police matter. The police tribunal took no action.

In August 2000, judges of the Appeals Court for Children and Adolescents in San Pedro de Macoris made public a set of allegations of similar abuses committed against 19 minors in police stations in Juan Dolio and Boca Chica, as well as in the General Pedro Santana public jail, which is controlled by the army. During the year, there was no investigation into these alleged abuses by the police or the military.

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of control of the authorities. The General Directorate of Prisons was under the authority of the Public Ministry and was seriously underfunded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Prisoners and human rights groups alleged that prisoners were not taken to their trials if they failed to pay bribes to the guards (*see* Sections 1.d. and 1.e.). Medical care in all prisons suffered from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS were not transferred to a hospital, but some terminal-stage inmates were released to spend their last days at home. Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

According to the Attorney General's office, the police and the military held almost 17,000 prisoners and detainees in 34 prisons with a total capacity of approximately 9,000 persons. As of December, the military controlled 21 prisons with a total of 5,618 prisoners, and the National Police controlled 13 prisons, with a total of 10,922 inmates. A warden was responsible for running each prison and reported to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel), who only was appointed for 3 to 6 months, reported to the warden and was responsible for providing security. However, in practice the colonel was in charge of the prison, and neither the Directorate of Prisons nor the individual wardens had much power. Some prisons were totally out of the authorities' control and were in effect operated by armed inmates, who decided whether an individual got food, space to sleep, or medical care. Individual inmates only could secure a tolerable level of existence by paying for it.

The overwhelming majority of prisons experienced extreme overcrowding. San Cristobal Najayo jail was originally built to house 700 inmates and contained close to 3,000. The overcrowding and deteriorating conditions at such prisons as Publica de Azua (administered by the military) posed a serious threat to the health and safety of the inmates. The prison, which was initially built in the 1940s to hold 40 inmates, held 171 prisoners. Inmates suffered from various illnesses including tuberculosis, bronchitis, and skin infections. Inmates who could not afford to pay for beds were forced to sleep on the floor. During September more than 25 prisoners died at the military-run prison of La Inmaculada Concepcion in La Vega in a fire allegedly set to prevent an inspection by guards. Newspapers and human rights groups reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors.

A government food program for the general public was used to provide lunches at some prisons. The former Director of Prisons reported that his office had a budget of \$0.50 (8 pesos) per inmate to provide three meals per day. Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or from family members. Due to inefficiency and corruption within the prison system, visitors often had to bribe prison guards in

order to visit prisoners. Female visitors often were forced to strip naked prior to entering the prison and were harassed sexually by prison guards.

Female inmates were separated from male inmates. In general, conditions in the female prison wings were better than those found in male prison wings. There were some reports of guards physically and sexually abusing female inmates. There were also reports that in the Najayo prison, guards forced women to act as prostitutes in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who delivered while incarcerated were permitted to keep their babies with them for 1 year.

The law requires that juveniles be detained separately from adults; however, in practice juveniles often were mixed with the general population. The authorities sometimes treated minors as adults—most often when physical examinations indicated that the persons claiming to be minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. The press reported a high incidence of juveniles detained with adult prisoners being forced into sexual servitude in return for protection. Human rights groups charged that nearly all of the 280 juveniles in Najayo prison who were housed with adults were abused sexually. In July 2001, a new prison for minors opened in Najayo, with a capacity of 200 persons; however, human rights groups charged that guards and prison staff continued to abuse minors in the new wing.

The Government permitted prison visits by independent human rights observers and by the press.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention were problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the security forces continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police typically detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merit release, and whom they should continue to hold. When the prosecutor's office began placing its lawyers in police stations in 1997, the police began to curtail the practice of arbitrary detentions; however, during the year, few new prosecutors were sent and the effectiveness of those working in police stations was negligible (*see* Section 1.c.).

Detainees at police headquarters in Santo Domingo, known as "the palace," reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held for 8 to 14 days, well beyond the 24-hour limit for minors. The official in charge of the Department for Minors attributed this to delays by the Juvenile Defender—the Public Ministry official in charge of interrogating minors—in sending them before a Juvenile Court judge. The law prohibits interrogation of juveniles by the police or in the presence of police.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property including motorcycles, other vehicles, and weapons. The armed forces carried out similar sweeps, in which they closed down major routes into Santo Domingo, searched cars for weapons and drugs, and detained individuals thought to be criminals. In June security forces arrested more than 700 residents of the Santiago area during operations "Centella" and "Guaragua." Numerous firearms were confiscated; 44 motorcycles and 18 cars were impounded.

Following the indiscriminate arrests, the police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Human rights organizations reported that individuals detained in these roundups frequently were beaten. The police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make their case (*see* Section 1.c.).

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse were all vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested.

In December the military briefly jailed a Dajabon area radio broadcaster, reportedly arresting him without written authorization from the correct judicial authorities (*see* Section 2.a.).

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them (*see* Section 5).

Many suspects endured long pretrial detention. About 82 percent of the national prison population was awaiting trial; of these, about three-quarters were "prisoners without sentences," and the remainder had convictions under appeal. The average pretrial detention throughout the country was well over 6 months. Time already served counted toward a sentence.

The failure of prison authorities to produce the accused for court hearings was slightly less pronounced during the year but still caused a significant percentage of trial postponements (*see* Section 1.e.). Prisoners often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witness did not appear. The authorities held some prisoners even though there were no formal charges against them.

Due to the historical inefficiency of the courts (*see* Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. As a rule, few defendants were granted bail. Large numbers of prisoners, who had served at least half their sentences, were pardoned each August 16 and at year's end.

Most detainees and prisoners could not afford adequate defense services. The program of the Commissioner for the Reform and Modernization of Justice, which had lawyers to defend people for free, ceased operation due to lack of funds. On May 31, the Supreme Court created a National Office of Judicial Defense to provide legal advice and representation to poor people being processed in courts. This program was supported by foreign donors, and as of August 26, eight lawyers were chosen for the National Judicial Defense Program.

The judicial system sometimes failed to protect the status of minors in criminal cases (*see* Sections 1.c. and 5).

The law prohibits forced exile, and there were no reports of its use. However, persons who asserted that they were citizens sometimes were expelled to Haiti (*see* Section 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, attempts by public and private entities, including the executive branch, to undermine judicial independence persisted. Civil society groups encouraged judicial independence. The judiciary received training funded by foreign donors in order to improve its ability to resist outside interference, but such influence remained a problem. Court officials also began to implement new selection criteria for judges.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters. Under the 1994 constitutional amendments, the Supreme Court is responsible for naming all lower court judges in accordance with a judicial career law. The Supreme Court has been complete since 2001, when the National Council of Magistrates (CNM) met to fill three vacancies. The Government has established 17 of the 25 courts provided for by law, including 5 courts for children and adolescents.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces. These tribunals, while functioning similarly to criminal courts, had judges and prosecutors who were military or police officers, and the results generally were not made public. Decisions could be appealed, including to the Supreme Court. Although police tribunals could remand accused officers to civilian court jurisdiction, this almost never occurred under the leadership of police chiefs prior to Chief Marte. Military courts tried military personnel charged with killings, but depending upon the severity of the offense, a panel of senior officers could send the case to the civilian courts. When a police officer was involved in a questionable incident, the case went to a police commission of superior officers for investigation. If it was determined that the police officer exceeded his authority, the case was sent to the police tribunals or possibly to the civilian courts, depending on the severity of the offense. In the security force killings committed during the year, numerous officers were remanded to civilian criminal courts (*see* Section 1.a.).

In 2000 six civil society groups made a submission to the Supreme Court on the issue of the legality of Law 285, which encompasses the Code of Police Justice. Civil society groups argued that police tribunals violated the Constitution, and that they

weakened the separation and independence of governmental functions, as well as the exclusivity of the judicial function in the administration of justice. The lawsuit asked the court to rule on the constitutionality of these tribunals; a judgment still was pending as the court awaited passage of police reform legislation at year's end. However, in one case, in December 2001, the Supreme Court set what the Attorney General termed a precedent by ruling that in peacetime, certain criminal offenses involving security forces should be tried in civilian courts (*see* Section 1.a.).

Public pressure existed for military or police boards to remand cases involving serious crimes to civilian court jurisdiction, and multiple such cases were remanded during the year. In other cases, civil authorities requested that the police turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution. Although mid-ranking officers were sometimes uncooperative, there was significant high-level cooperation from the National Police and military in requested investigations during the year (*see* Section 1.c.).

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

The most serious and common violation of these rights occurred when police detained suspects, sometimes for many days, without allowing them to call family members, while subjecting them to frequent questioning (*see* Section 1.d.). Although accused persons were entitled to have an attorney present, they often were not permitted to call one or, if one arrived, the attorney was not permitted to be present during the questioning. Torture frequently was used to coerce a confession during questioning (*see* Section 1.c.). Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently formed the only evidence presented at the trial.

The law provides for the remedy of "amparo," an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, in accordance with the terms of the American Convention on Human Rights. The process of dispute resolution, including reconciliation, mediation, and arbitration, continued to be used as an alternative to trial and incarceration.

A large backlog of criminal cases remained in the National District and throughout the country. The Supreme Court's plans to unclog the court dockets were frustrated by the Government's failure to allocate sufficient funds. Dockets were crowded with traffic infractions that should have been heard in the traffic courts provided for by statute; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting prisoners to court. Many cases were rescheduled when the accused or key witnesses did not appear.

During the year, the Government adopted a new criminal code intended to simplify court procedures, accelerate the justice system, and discontinue the practice of holding a person in jail while trial procedures were underway. The new code supports the presumption of innocence until proven guilty. President Mejia established a commission to handle the preparations necessary to implement the new criminal code by 2004.

During the year, the Supreme Court also began a pilot program to bring the courts to the jails to expedite the processing of inmates, since transporting inmates to the courts was one of the biggest obstacles to the administration of justice. Of the more than 16,500 inmates in custody, only 15 to 30 percent had been sentenced. The program, which should help relieve prison congestion, began at San Cristobal Najayo jail in August and was to expand to La Victoria prison, the largest jail in the country, followed by Monte Plata.

While in 2000 the congestion in the criminal system was reduced by more than 50 percent through use of community conciliation centers, those gains largely were lost during the last 2 years. It was clear that the change of 90 percent of Public Ministry officials by the Mejia administration in August 2000 resulted in a marked deterioration of the technical competence and ethical standards of prosecutors around the country. The practical effect has been a decrease in the ability to combat impunity and a deterioration in the quality of justice available to the poor.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution contains provisions against arbitrary entrance into one's home; however, police sometimes broke into private quarters without cause to search for suspects, and the authorities infringed on citizens' privacy rights in other ways as well. Although the Government denied arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it had not taken steps to dismantle an active private wiretapping industry. In September the Dominican Human Rights Commission reported that police captured Priscilla Diaz Infante, allegedly involved in the Feliz Mendez murder, by tapping the Commission's telephones (see Section 1.c.).

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business while in hot pursuit of such suspects. Otherwise, judges must authorize arrests and issue search warrants. However, the police continued to violate these requirements. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods, including Capotillo, Gualey, Guandules, Guachupita, Los Alcarrizos, and La Zurza; police allegedly went into homes without search warrants to look for delinquents.

According to the Dominican Human Rights Committee, the police on several occasions used force to remove squatters from state-owned lands in and near Santo Domingo.

The police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Newspapers and magazines freely presented a diversity of opinion and criticism; there were eight daily and seven weekly newspapers and three weekly magazines. However, journalists and editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

Numerous privately owned radio and television stations broadcast all political points of view. The Government controlled one television station.

In December the military briefly jailed a Dajabon area radio broadcaster, who implicated the President's son in the illicit sale of agricultural products on a program discussing the cross-border contraband trade. The *Listin Diario* newspaper reported that the executive branch replaced the local District Attorney, Maria de los Santos Tejada, after she demanded that the military free the journalist, who had been arrested in the evening, without written authorization from the correct judicial authorities. The Government planned to proceed with a libel and defamation suit. The arrest and firing created waves of protest in various sectors, and local religious and civil society groups staged peaceful protest marches in Dajabon.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually granted; however, the police used force to break up demonstrations on several occasions throughout the year, which sometimes resulted in deaths and injuries. The Government used deadly force to disperse demonstrators calling for completion of public works projects, the provision of potable water, and the cessation of blackouts (see Section 1.a.).

In March the police killing of a bus driver caused violent protests (see Section 1.a.). Metropolitan transit police intercepted a 40-minibus protest parade in the Villa Juana area, leading to 35 arrests and various injuries. The authorities eventually released those arrested.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties frequently affiliated with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others functioned freely and maintained relationships with counterpart organizations.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church, which signed a concordat with the Government in 1954, enjoyed special privileges not extended to other religions. These included the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons, and the Government generally respected these provisions in practice; however, there were some exceptions. Citizens faced no unusual legal restrictions on travel within or outside the country. The police occasionally blocked roads to search cars for weapons and drugs (see Section 1.d.). Local and international human rights groups cited discrimination against Haitian migrants, whom they said were subject to arbitrary and unilateral action by the authorities, and the military reportedly killed some migrants attempting to enter the country (see Section 1.a.).

Haitians continued to migrate in great numbers to the Dominican Republic, some legally but the vast majority without legal documents, in search of economic opportunity. Some illegal migration was assisted by the authorities, who profited from it. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The Directorate of Migration reported that it repatriated over 12,000 Haitians during the year. In some cases, the Government denied those deported the opportunity to demonstrate that they were legal residents in the country or to make arrangements for their families or property.

The Haitian Embassy began a pilot program to issue identity documents to Haitian adults residing in the country, and it issued over 30,000 such documents during the year. Most Haitians, including those making clandestine crossings of the border, did not have identification papers of any kind. The lack of identification made it difficult for the authorities to provide social services, such as education, to Haitian children.

NGOs and Catholic priests familiar with the process have protested that children born of Haitian parents in the Dominican Republic, generally denied registration as citizens, frequently were among those deported as illegal Haitians (see Section 5).

In December a judge ordered the Central Electoral Board (responsible for registering births and providing national identification cards) to grant Dominican nationality to two sons of illegal Haitian immigrants on the grounds that the children were born on Dominican soil. This ruling generated controversy, and some members of Congress asked the Supreme Court to overturn the lower court decision, based on the fact that the parents were “in transit,” and therefore the children could not acquire Dominican nationality. For years, the term “in transit” had been interpreted to include anyone not legally residing in the country, which included the vast majority of Haitians, regardless of the years they had spent in the country. The Supreme Court refused to hear an appeal, and many prominent figures publicly spoke out in favor of the lower court ruling.

In 2000 the Inter-American Court of Human Rights heard a case presented by human rights organizations, alleging that massive expulsions, repatriations, and deportations of Haitians and Dominican-Haitians by the Government violated international human rights law. The Court’s decision requested that the Government provide more detailed information about the condition of individuals in the border shantytowns who potentially were subject to forced expulsions and asked for a report every 2 months on provisional measures adopted to comply with the Court’s decision. The Government provided the Court with the bimonthly reports and expected the Court to send the issue again to the IACHR.

NGO representatives working in rural areas reported that decisions to deport often were made by lower-ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. Such officials approached persons who looked like Haitians, including persons who had very dark complexions and fairly poor clothing, and engaged them in conversation, mainly to check their use of Spanish and any accent they might have. If such persons spoke Spanish poorly or with a noticeable accent, they were sometimes detained and deported.

While the Government had a policy of strictly enforcing documentary requirements and repatriation for those found lacking documents, it appeared to have a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. Thus, after being stopped as a suspected illegal Haitian migrant, an individual could be allowed to remain in the country despite lack of documentation if the story about work satisfied the official.

NGOs reported corruption among the military, migration authorities, and other border officials and noted that these government representatives sometimes allowed the transit of Haitian workers into the country.

In September a Belgian priest, Pedro Ruquoy, stated that members of the army, migration officers, and privatized sugar mills were all complicit in smuggling field hands from Haiti. The priest said that in a visit to Puerto Escondido, near the frontier, he visited installations used to lodge Haitians temporarily prior to their transfer to the sugar mills. The priest estimated that 30,000 undocumented Haitians had been smuggled through this center and said that those recruiting the Haitians received about \$8 (150 pesos) a person (*see* Section 6.f.). Haitians recruited for the sugar mills usually worked for only one harvest but remained in the country, securing better-paying jobs in construction.

The Government did not actively cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government asserted that it provided first asylum and resettlement. According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs in the Migration Directorate. The subcommittee, which makes a recommendation to the commission (both chaired by the Foreign Ministry), is made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, which makes a final decision on the application, consists of the three members of the subcommittee; the legal advisor to the President; and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of December, more than 100 applications for refugee status had been filed with the Office of Refugees in the Migration Directorate, nearly all by Haitians. In 2001 the National Commission for Refugees met for the first time since 1993. The National Commission reviewed over 65 cases but did not make any decisions on pending refugee cases at that time and has not met since. However, the Technical Subcommittee met several times during the year, referring dozens of cases back to the Migration Directorate for technicalities such as lack of properly documented claimant signatures or identities.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Citizens exercised this right in generally free and fair congressional elections in May.

The President and all members of the Senate and the Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, active duty police and military personnel may not vote. Voting is restricted to those who can document nationality. The Central Electoral Board conducts all elections. During the year, the legislature adopted constitutional reforms affecting the electoral system, including a provision that the President may be reelected one time. The reforms abolished a system whereby voters were locked into the polling site until all voting had concluded, and women and men no longer have to vote at separate times.

Congress provided an open forum for the free exchange of views and debate. The main opposition party was the PLD, which held 1 of 32 seats in the upper house and 42 of 150 seats in the lower house. A third major party, the PRSC of former President Balaguer, held 2 seats in the upper house and 36 seats in the lower house; various smaller parties were certified to contest provincial and national elections.

The nation had a functioning multiparty system. Opposition groups of the left, right, and center operated openly. The President often dominated public policy formulation and implementation. He could exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. The President appoints the governors of the 32 provinces.

Women and minorities confronted no serious legal impediments to political participation. By law parties must reserve 33 percent of positions for women on their lists of candidates for city councils; however, the parties often placed women so low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch, was Vice President. Two women served in the 32-member Senate; women held 24 seats in the 150-member Chamber of Deputies. Women continued

to be represented in appointed positions, albeit to a limited degree. The President of the Chamber of Deputies was a woman, as were three cabinet secretaries. Women filled 5 of the 16 seats on the Supreme Court.

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

Nongovernmental human rights organizations generally operated freely without government interference, and government officials were somewhat cooperative and responsive to their views. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the Narciso Gonzalez case), several Haitian, church, women's, and labor groups existed.

In February 2001, Congress passed a law creating a human rights ombudsman's office, although selection of the individual to fill the position still remained pending at year's end. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector issues involving human rights, the environment, women's issues, youth issues, and consumer protection.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

Women.—Domestic violence was widespread. NGOs estimated that 40 percent of women and children were victims of domestic violence. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from \$30 to \$6,000 (500 to 100,000 pesos). The Secretariat of Women, as well as various NGOs, had outreach programs on domestic violence and legal rights. The Government's center in Villa Juana (Santo Domingo) for the legal support and forensic examination of abused women handled over 100 cases per day. Due to the success of this first center, the Government opened a second center and planned four more. There were no functioning shelters for battered women.

The Department of Children, Teenagers, and Family of the Attorney General's Office issued 2,600 protection orders in favor of women during the first 6 months of the year, of which 25 percent were for spouses of military personnel or policemen involved in domestic violence. According to government statistics, 107 women were killed in "crimes of passion" during the year.

Rape was a serious problem and was believed to be widely underreported. The Santo Domingo District Attorney's office received 1,706 rape or sexual violation complaints during the year. The penalties for committing rape are 10 to 15 years in prison and a fine of \$6,000 to \$12,000 (100,000 to 200,000 pesos). The State can prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

The law prohibits sexual harassment in the workplace; however, the law was not enforced, and sexual harassment was widespread.

Prostitution is illegal; however, the Government usually did not enforce prostitution laws. Sex tourism was a growing industry throughout the country as the number of international visitors increased. NGOs conducted HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, hotel and industrial zone workers, and other high-risk groups. The Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government used the law to prosecute third parties that derived profit from prostitution.

Divorce was easily obtainable by either spouse, and women could hold property in their own names apart from their husbands. Traditionally, women did not share equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired.

Children.—Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carried the principal burden for such services. The Oversight Organization for the Protection of Children, created by the executive branch, was the primary government institution responsible for child

welfare. It carried out community information campaigns on children's rights, including the prevention of child abuse, child labor, and family violence. It also provided training to persons and groups providing social services to children, judicial officials, and other children's advocates. Private institutions received 35 to 40 percent of the budget of the Oversight Organization. The Ministry of Youth operated programs on drug prevention and HIV/AIDS awareness.

The 1994 Minor's Code requires 8 years of formal education. Children of Haitian descent experienced difficulties attending school due to their lack of official status. The code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse received increasing public attention.

In the National District, the Department of Family and Children, in the Office of the Prosecutor, administered the Minor's Code and arranged conciliation of family conflicts, the execution of court decisions with respect to child protection, and interviews with children whose rights had been violated.

Abuse, including physical, sexual, and psychological, was the most serious human rights violation affecting children. The Department of Family and Children estimated that 50 percent of the children in the country were victims of some sort of abuse, although few such cases reached the courts. In the majority of the cases, the accused was a person close to the child: A father, grandfather, uncle, brother, cousin, or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a penalty of 10 to 20 years' incarceration and a fine of \$6,600 to \$13,200 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

The Ministry of Health estimated that between January and June, there were 894 births by adolescents under age 15 and 15,560 births by adolescents between the ages of 15 and 19, some of which reportedly resulted from rape or incest.

Trafficking and sexual exploitation of children was a serious problem (*see* Section 6.f.). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing; sometimes they were forced into unsafe relationships with strangers by the need for money. Once involved, they could be held against their will by individuals who sold their sexual favors to others. Some of these minors were lured from their parental homes; others were already on the street.

The judicial system sometimes failed to protect the status of minors in criminal cases (*see* Sections 1.c. and 1.e.). In accord with the Minor's Code, the Government established 17 courts of first instance for minors and 5 appeals courts for minors, the latter in Santo Domingo, Santiago, San Pedro, San Cristobal, and La Vega. Although these juvenile courts were organized with a focus on rehabilitating offenders, very few social services were available for minors. In practice, juveniles were detained in excess of the time permitted by law and often sent to jail rather than referred for rehabilitative services. There were legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases. Human rights monitors reported numerous cases of sexual abuse of minors in Najayo prison (*see* Section 1.c.).

Child labor was a serious problem in the informal sector of the economy (*see* Section 6.d.). It was common for minors to be put on the street to fend for themselves as younger siblings claimed the parent's meager resources. Homeless children called "palomas" (doves) were frequently at the mercy of adults who collected them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they were given basic housing. The ages at which these children worked, the hours they worked, and their failure to comply with compulsory school attendance all violated the law, but the Government has not been able to combat this practice.

Persons with Disabilities.—Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. There was a Subsecretariat for Rehabilitation under the Ministry of Public Health, a recreation center for persons with disabilities in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for such persons. However, there was little consciousness of the need to make the daily lives of persons with disabilities safer and more convenient. For example, new street construction made few provisions for such persons to cross the streets safely.

The Dominican Rehabilitation Association (ADR), which receives about 30 percent of its budget from the Government, had 17 affiliates throughout the country and provided services for 2,500 persons daily.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities.—A strong prejudice against Haitians exists and disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African descent (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts to stem the influx of illegal Haitian immigrants made it more difficult for those Haitians already in the country to live peacefully or legally. Although infrequently enforced, police regulations threatened those offering transportation to illegal immigrants with confiscation of their vehicles and discouraged taxi and bus drivers from picking up darker-skinned persons. In roundups of illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

Perhaps 500,000 Haitian immigrants—or 6 percent of the country's population—lived in shantytowns or sugar cane work camps, in harsh conditions with limited or no electricity, running water, or schooling. There were estimates that as many as 1 million Haitians lived in the country. Human rights groups regularly charged the Government with unlawful deportations of, and police brutality toward, these immigrants—most of whom resided in the country illegally and therefore received little or no protection under the law (see Sections 1.c., 1.d., and 2.d.).

The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children. Lack of birth registration sometimes deprived children of Haitian descent of the opportunity to attend school where there was one available. Even when permitted to attend primary school, the children of Haitian parents rarely progressed beyond sixth grade. In 2001 the Secretary of Education announced that all children would be allowed to enroll in school through the eighth grade, whether or not they had a birth certificate. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards in order that all children would have birth certificates to enroll in school. NGOs reported that higher numbers of Haitian children enrolled in school during the year, and according to a census conducted by the Secretariat of Education, at least 63,000 children without birth certificates—of both Dominican and Haitian parents—attended school.

Sometimes poor Haitian families arranged for Dominican families to “adopt” and employ their children to ensure a more promising future for them. The adopting parents registered the child as their own. In exchange, the parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adoptees as full family members and expected them to work in the households or family businesses rather than attend school, resulting in a kind of indentured servitude, at least until the young person reached majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to organize. Organized labor represented an estimated 10 percent of the work force and was divided among four major confederations and a number of independent unions. There were 3,524 registered unions in the country, but an estimated 61 percent were inactive. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within 30 days. In practice, the Government readily facilitated recognition of labor organizations.

The Government generally respected association rights and placed no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws was sometimes unreliable, inhibiting employees from freely exercising their rights.

Unions were independent of the Government and generally independent of political parties. The law forbidding companies to fire union organizers or members was enforced selectively, and penalties were insufficient to deter employers from violating worker rights. The Dominican Solidarity Center asserted that since the 1999 privatization of the sugarcane industry, employers had been responsible for the dis-

appearances of over 150 union organizers or members (*see* Section 1.b.). There were additional reports of widespread discreet as well as overt intimidation by employers in an effort to prevent union activity, especially in the Free Trade Zones (*see* Section 6.b.).

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) reported significant antiunion activity at the FM company in Santiago between July and September. According to FEDOTRAZONAS, when manager Jose Miguel Torres could not dissuade the organizing committee from forming a labor union within FM, management attempted to plant three new “workers” in the burgeoning union. These three new workers, wielding machetes, beat members of the organizing committee, one of whom eventually shot and wounded one man holding a machete. A day later, the two remaining members of the antiunion group showed up in front of the company with a truckload of heavily armed ruffians to look for the rest of the organizing committee, the remainder of whom had fled. On October 25, the organizing committee once more informed management of employees’ intent to unionize. Management again brought in additional “workers” who physically assaulted members of the organizing committee, and on November 29, violently expelled those members of the organizing committee who refused to stop pronion activity. As a result of these incidents, the Labor Secretariat cited the FM company for violating the Labor Code.

According to the Dominican Solidarity Center, in September approximately 140 employees of the FTZ company Ramsa in Santiago were fired without cause when they were forming a collective bargaining agreement; 98 percent of those fired were union members or pregnant women. Management allegedly bribed eight union organizers about \$55,000 (1 million pesos) each in order to dissuade them from further pronion activity or agitation. The Secretariat of Labor cited Ramsa for several infractions of the Labor Code, including maternity rights violations, and charged the company with violating the Penal Code. This was the first time the Government brought a case of this sort against a FTZ company; the initial hearing on the matter was scheduled for January 2003.

In 2000 the Caribbean Sugar Producer’s Consortium laid off 150 workers at its sugar mill in Consuelo in retaliation for having formed a trade union. A court order succeeded in getting the majority of the workers reinstated, and those persons received some compensation for the period during which the workers were unemployed. Those who were not reinstated still had not received compensation at year’s end, and the original owners left the country, making it difficult to enforce the court’s judgment.

Labor unions can and do affiliate freely regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is legal and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and found that in many cases they could impede collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, workers sometimes were fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Requirements for officially calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Brief work stoppages, or unofficial strikes, were more common. During the year, members of several major transportation unions briefly walked off the job to protest countrywide toll hikes. The Government sometimes responded with force to disperse demonstrations in support of strikes (*see* Section 2.b.).

In June the Secretariat of Labor charged a Korean-owned FTZ company with violating the Hygiene Code in an incident in which toxic fumes sickened approximately 100 employees. (The company had been repainting work areas during business hours.) This led the local union to initiate a collective bargaining agreement, but the company refused to negotiate several clauses, and negotiations broke down completely on December 4. In October the company began laying off workers, including a large number of union members and activists. By year’s end, the factory had begun moving equipment and primary materials to an affiliate located in the Moca FTZ.

The Labor Code applies in the 40 established FTZs, which employed approximately 160,000 workers, mostly women. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (*see* Section 6.c.).

There were reports of widespread discreet intimidation by employers in the FTZs in an effort to prevent union activity (*see* Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. In the FTZs, while there may be as many as 10 collective bargaining agreements on paper, only 3 actually functioned. The majority of the unions in the FTZs are affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or the FEDOTRAZONAS. FENATRAZONAS estimated that only 3 percent of the workers in the FTZs were unionized.

Many of the major manufacturers in the FTZs had voluntary “codes of conduct” that included worker rights protection clauses; however, it was not known if they incorporated the ILO’s Fundamental Principles and Rights at Work. In general, workers rarely had heard of such codes or the principles they set out. It also was not known how many workers received training about the codes, if workers had any effective means of asserting their rights under them, or whether any of the codes were subject to credible independent monitoring.

c. Prohibition of Forced or Bonded Labor.—The law prohibits all forms of forced or bonded labor, including by children; however, such practices still existed in the adult worker population and among children in the informal sector. Young children “adopted” by families worked under a kind of indentured servitude, and homeless children were made to beg by adults (*see* Section 5). Trafficking in women and children, particularly for purposes of prostitution, was also a problem (*see* Section 6.f.).

The FENATRAZONAS noted that mandatory overtime in the FTZ factories was a common practice. Workers also reported that their employers locked factory doors with chains so they could not leave, and took incentive pay away from or fired those who refused to work overtime. For example, many companies used an incentive system in which a team of 12 to 15 persons was given a quota to fill by the end of the week, in order to receive extra benefits. Most teams were unable to fill the quota to receive the benefits and were not paid overtime pay for the extra time they put in to attempt to fill the quota. Union officials stated that newly hired workers were not informed that overtime was optional.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code prohibits employment of children less than 14 years of age and places restrictions on the employment of children under the age of 16; however, child labor was a serious problem. Restrictions for children between the ages of 14 and 16 include limiting the daily number of working hours to 6, prohibiting employment in dangerous occupations or in establishments serving alcohol, and limiting nighttime work. A company could face legal sanctions and fines if caught employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. A national child labor survey conducted by the Labor Ministry found that 428,720 children between the ages of 5 and 17 worked. (The total estimated population for this age group was 2.4 million.) Of these children that worked, 56 percent were less than age 14; 21 percent were between 14 and 15, and the remaining 23 percent were adolescents 16 or older; 90 percent of those that worked also attended school.

The high level of unemployment and lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income (*see* Section 5). Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. The Government attempted to eliminate the use of children for cutting sugar cane; however, there were still some reports that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with the tacit acceptance of sugar companies. Also, human rights groups reported a slight increase in the number of undocumented Haitian 14- and 15-year-olds working in the cane fields.

The Ministry of Labor, in collaboration with the ILO’s Program on the Eradication of Child Labor and other international labor rights organizations, implemented programs to combat child labor. These included the national child labor survey and a program to remove children from dangerous agricultural work in San Jose de Ocoa,

Constanza, and Azua. The Constanza program removed over 550 children, twice as many as the targeted number, from work in hazardous agriculture, and placed them in schools.

The law prohibits forced or compulsory labor by children; however, such practices persisted in the informal sector, and trafficking in girls was a serious problem (see Section 6.f.). There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work.—The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary was \$135 (2,490 pesos) in the FTZs, and \$200 (3,690 pesos) outside the FTZs. The minimum wage did not provide a decent standard of living for a worker and family; it only provided approximately one-third of the income necessary to sustain an average family. The national poverty level, which was based on a basket of goods and services consumed by a typical family, was \$357 (6,607 pesos) per month for a family of five.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs (see Section 6.c.).

Conditions for agricultural workers were poor, especially in the sugar industry. Most sugar cane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers often did not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and weighed less. Many cane cutters earned less than \$4.00 (80 pesos) per day and were paid in tickets that were redeemable for cash every 2 weeks. Because workers earned so little and sometimes could not wait until payday to redeem their tickets, an informal barter system evolved in which the tickets also were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer.

The Dominican Human Rights Committee and shantytown residents reported that conditions of work for cane workers had deteriorated since the industry was privatized in 1999. In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving. Employers also withheld wages to keep workers in the fields.

Workers reportedly were paid less, worked longer hours, and had fewer benefits, according to the committee. The Dominican Solidarity Center reported that since 1999, over 150 union organizers or members within the sugarcane industry disappeared (see Section 1.b.). The center alleged that employers were responsible for these disappearances.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. During the year, Congress passed a new Social Security law that expanded coverage of the social security programs. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 250 inspectors who seek to improve sanitation, health care, and safety for workers. Included in this number was a smaller, specialized corps (eight in Santo Domingo) of inspectors for the FTZs. Inspector positions customarily were filled through political patronage, and bribes from businesses were common. In practice workers could not remove themselves from hazardous working situations without jeopardizing employment.

f. Trafficking in Persons.—There was no comprehensive law to prohibit trafficking in persons or to provide victim services, although several laws could be used against it. Trafficking in women and children from, to, and within the country remained a serious problem. Women 18 to 25 years of age were at the highest risk for being trafficked. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curacao, San Martin, Aruba, Panama, Venezuela, and Argentina. Women were trafficked to the United States, although in smaller numbers. Within the country there was a serious problem of prostitution of minors, primarily in the tourist areas. The ILO and the International Organization for Migration (IOM) reported a growing problem of Haitian women and children being trafficked to beg in the streets; ac-

ording to the Director General of Migration, the trafficking ring linked to these beggars was under investigation.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as UNICEF and IOM that worked with trafficking victims, were able to provide general numbers through interviews with individuals and extrapolation. The Directorate of Migration estimated that there were approximately 400 rings of alien-smugglers, traffickers, and purveyors of false documents operating within the country. These individuals profited by facilitating the trafficking of women to Europe and the Eastern Caribbean under false pretenses and for purposes of prostitution. According to COIN and IOM, traffickers were usually small groups involving just a few people. Usually there was a contact in the destination country and a few persons in the Dominican Republic who handled obtaining identification and travel documents and recruited the persons to be trafficked.

According to the Directorate of Migration, individual members of that directorate, the armed forces, or National Police who facilitate, condone, or were complicit in trafficking activities or migrant smuggling were investigated, and fired or prosecuted when appropriate. NGOs reported corruption among the military and migration border officials and noted that these officials sometimes cooperated with the transit of Haitian workers into the country to work on sugar plantations and construction sites (*see* Sections 2.d. and 6.d.).

Accion SIDA, an HIV/AIDS NGO, estimated that children constituted 10 to 15 percent of the total number of persons engaged in the country's sex industry. Some elements within the tourist industry facilitated the sexual exploitation of children; particular problem areas were Boca Chica and Puerto Plata. Tours were marketed by foreigners overseas with the understanding that boys and girls could be found as sex partners. In July the National Prosecutor's Office and the Association of Hotels signed an agreement to combat the exploitation of children in the tourist industry. Journalists reported that a large number of prostitutes in brothels around the National District appeared to be between 16 and 18 years of age. Newspaper reports indicated that as many as 30,000 children and adolescents may be involved in the sex industry. There were several church-run shelters that provided refuge to children who escaped prostitution. Prostitution was the principal means of exploitation of underage girls in the informal economy.

The Interinstitutional Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two nongovernmental organizations and a religious order, became the lead organization dealing with this problem through its regular monthly meetings and its cosponsorship of an August seminar on the role of the State and civil society with respect to fighting trafficking. It also assumed a coordination function since it was comprised of the key agencies and organizations interested in and responsible for combating trafficking.

The Secretariat of Labor also became much more involved with trafficked minors through its program to fight the worst forms of child labor. The ILO began a pilot program in Boca Chica to identify and work with children involved in the sex trade and to coordinate with the Secretariats of Health and Education to provide psychological support and medical assistance, and to return the children to the classroom.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues including the dangers of trafficking, forced prostitution, and domestic servitude. The program also provided services to returning women. COIN administered the Center for Health and Migration Information for Migrant Women that carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude.

Several laws may be applied to prosecute those who traffic in persons, one of which establishes sanctions against alien smugglers involved in illegally transporting people into and out of the country. That law provides that persons involved in planning, financing, facilitating, or organizing the illegal transportation of persons shall be imprisoned for a period of 3 to 10 years and fined \$600 to \$3,000 (10,000 to 50,000 pesos). However, in practice if these smugglers were foreigners, they did not spend time in prison; they were simply deported. The law also provides that if military personnel, police officers, or agents of the public authority participate in the commission of the acts mentioned, the tribunal shall impose the maximum penalties. In addition, a law specifically targeting procurers of prostitutes may be used to combat trafficking in persons; it imposes jail terms of 2 to 10 years and fines of up to \$6,000 (100,000 pesos) for traffickers involved in the promotion

of prostitution. This law makes procurement of minors and adolescents, as well as threats of violence, aggravating factors. The 1997 Law Against Domestic Violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to, or acts that may be a part of, the traffic in persons, whether female or male, minors or adults. There is no law that provides substantial protection and rehabilitation services to victims of trafficking.

According to the Directorate of Migration, cases of trafficking were investigated actively. In October members of the Armed Forces and migration authorities were investigating a ring of traffickers in La Vega, a point of origin for many trafficked women who ended up in Switzerland and Austria, but no arrests had been made.

The Oversight Organization for the Protection of Children sought to prevent abuse of the child adoption process by those intending to sell or exploit children through prostitution or child pornography. The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities—including those of their own country. The Government sought to protect children from being victimized by those who would adopt them. Many children left the country as adoptees, but government officials made such adoptions more difficult to deter would-be traffickers from abusing the system.

The Government did not have services for assisting trafficking victims such as temporary or permanent residency status, relief from deportation, shelter, or access to legal, medical and psychological services. When trafficked individuals were repatriated from abroad, they were given a "control record" that went into their official police record, and they were interviewed by a Migration Inspector. According to COIN, most victims were too embarrassed or afraid to seek legal action against traffickers. The Government initiated specialized training for Dominican Consuls posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations.

ECUADOR

Ecuador is a constitutional republic with a 100-member unicameral legislature that was chosen in free and fair elections in October 2002. The National Congress is composed of four major parties, six minor parties, and three independents spanning the spectrum from center-right to extreme left. In November Lucio Gutierrez was elected President and will assume office on January 15, 2003, succeeding Gustavo Noboa. The judiciary is constitutionally independent but in practice was inefficient and susceptible to outside pressure.

While the civilian authorities generally maintained effective control of the security forces, the military enjoyed substantial autonomy, which was reinforced by revenues generated from civil aviation, shipping, and other commercial sectors. The civilian Ministry of government is in charge of the National Police, which is responsible for domestic law enforcement and maintenance of internal order. In February President Noboa declared a state of emergency in Sucumbios and Orellana Provinces due to local anti-government protests; this gave him the authority to use troops to monitor and react to public protests. Throughout the year, the military continued to supplement the police on an ad hoc basis. Some police and members of the military continued to commit human rights abuses.

The economy, which is in the third year of recovery from a severe economic recession, is based on private enterprise, although there continues to be significant government involvement in key sectors such as petroleum, utilities, and aviation. The country's population is estimated at 12.2 million. The principal exports are oil, bananas, shrimp, and cut flowers, which, together with emigrant remittances and tourism, are the country's leading sources of foreign income. Most citizens were employed in the urban informal sector or as rural agricultural workers; rural poverty was extensive, underemployment was high, and there was severe maldistribution of income. A U.N. Development Program report estimated that 71 percent of the citizens lived in poverty in 2001 of whom 30 percent were indigent, with an almost total lack of resources. Annual inflation was approximately 9.4 percent.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remain. There were credible reports that police, security forces, and semiofficial entities committed killings using unwarranted lethal force. Security forces killed three persons during demonstrations; however, the number of killings during demonstrations declined from 2001 levels, and members of the security forces also faced prosecution and prison sentences for some

violations. Police tortured and otherwise mistreated prisoners and detainees. Prison conditions remained poor. Persons often were subject to arbitrary arrest, and prolonged detention was a problem. Once incarcerated, persons without lawyers may wait up to 1 year before being tried or released. Nearly one-half of the detainees in jail have not been sentenced formally. The Government prosecuted a few human rights abusers; however, in most cases there was no prosecution or punishment. The judiciary was politicized, inefficient, and sometimes corrupt, which undermined the rule of law. There was some self-censorship in the media. Between June and August, unknown assailants broke into the offices of three human rights organizations and searched their files and computers. The police used tear gas and other methods to quell protesters. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians remained problems. Child labor remained a problem. Mob violence and vigilante killings persisted. Ecuador was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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; however, there continued to be credible reports that police, security forces, and semiofficial entities such as neighborhood brigades used excessive force and committed killings. (Neighborhood brigades or "juntas" are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. Their members were not authorized to carry firearms but often did.) Through November the Ecumenical Committee for Human Rights (CEDHU) reported 23 killings by security forces, compared with 62 killings during all of 2001. In some instances, there was insufficient evidence to reach a conclusion as to what occurred; however, the killings sometimes exhibited a suspicious pattern.

Three bodies were discovered along the highway around Guayaquil during the first 9 months of the year, compared with 26 bodies discovered along the highway in 2001. Some human rights groups allege that the Intervention and Rescue Group (GIR) police or the semi-autonomous Guayas Transit Commission police (CTG) (operating under the Mayor's anticrime plan Mas Seguridad) were involved in these killings; others asserted that criminals were responsible. In almost all of these cases over the past 2 years, government agencies did not investigate. However, there was a police investigation in the case of David Delgado and Carlos Lara, whose bodies were found along the highway around Guayaquil on January 1. The bodies showed evidence of torture and bullet wounds. A neighbor claimed to have seen six men dressed in GIR uniforms take the two victims away in a car on December 29, 2001. Five police officers were indicted in the case; as of December, the case remained pending in the police court system.

Security forces killed three persons during demonstrations (*see* Sections 1.c. and 2.b.). On January 11, during national protests against the Government's increase in the price of fuel, police in the city of Cuenca shot and killed 16-year-old student Damian Pena. As of December, the case remained under investigation by the prosecutor's office. At the time of the killing, students had been throwing stones at the police, and the police had fired tear gas at the protesters. On February 24, during protests in Sucumbios and Orellana Provinces, a house in Lago Agria was destroyed when gas tanks inside the house exploded. When police arrived at the scene, they shot and killed 26-year-old Marcelo Zambrano, who was unarmed. Bystanders said the police shot Zambrano because he was slow to comply with an order to lie down on the ground. As of December, one policeman was under investigation for the killing, and no final decision had been made by the police court system. There were reports that a second person, Luis Guerra Pachacama, was shot and killed by security forces during the protests in Orellana. One witness said that members of the military, who had fired tear gas and bullets at demonstrators, shot Pachacama. As of December, the investigation into the death of Pachacama appeared to be stalled, and no further details in the case were known.

On March 24, in the town of Puyo, a policeman shot and killed Congressman Eduardo Vasconez. According to bystanders, at 3:30 a.m. Vasconez and policeman Fausto Bosques Cajas came to blows in an argument, and Bosques fired one shot at Vasconez. The cause of the argument was unclear, but apparently it started after Bosques had stopped some youths. Bosques was charged in the case, but as of December, no verdict had been reached.

In June Rodrigo Ron died in prison under suspicious circumstances (*see* Section 1.c.).

On July 1, police in Sucumbios detained taxi driver Klever Abad for transporting a type of fuel that is used in processing cocaine. According to police, Abad threw himself into a river to avoid arrest. His body was found several days later,

24 miles from the bridge, with apparent gunshot wounds. After an investigation, a policeman was charged in the case; however, as of December, the case remained in the police court system.

In the case of the February 2001 killing of Joffre Aroca, policeman Carlos Rivera spent more than a year in prison without being sentenced. Rivera escaped from prison in April but was captured and—after returning to prison—was sentenced to 8 years in prison for the murder of Aroca. Rivera appealed his sentence and was released from prison at the end of April, since he had already served more than a year in prison.

In August 2001, 22-year-old lieutenant Julio Robles died during a military hazing event known as a “baptism,” which took place at the B1–21 Infantry Battalion in Macara. As of December, the case against three members of the army remained in the military courts without a final resolution. In December President Noboa decreed that the three defendants be discharged from the military.

In March a court sentenced five policemen to 12 years in prison for the murder of Pedro and Carlos Jaramillo, and the attempted murder of Pedro Baque, in 1999. Baque survived eight gunshots and testified against the policemen. The court released three other policemen Baque implicated in the attack.

Six policemen were sentenced to 8 years imprisonment in September for the December 2000 murders of Pedro and German Akintiua. The policemen killed the father and son, members of the Shuar indigenous community, during an altercation. The policemen’s appeal of the decision remained pending at year’s end.

Three individuals (not members of government security forces) were arrested for the 1999 killings of Jaime Hurtado Gonzalez, a member of Congress from the far-left Popular Democratic Movement party, and two associates. The three were released after spending 1 year in jail. In November the prosecutor for the case completed an investigation of the case, but at year’s end the judge had not decided whether to try the three suspects.

There were cases of mob violence that resulted in lynching and burning of suspected criminals (*see* Section I.e.). Mobs or vigilante groups killed 11 crime suspects in the first 9 months of the year; individual lynching continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, on January 27, in the Cuendina neighborhood south of Quito, 3 men were accused of robbing a bakery. Hundreds of residents assembled, seized the men, beat them, and burned them alive. On July 13, police in Santa Rosa arrested Franklin Pauta for murder. Police attempted to move him to a different town; however, residents blocked the highway. The police returned to the police station, where an estimated 3,500 residents surrounded them, threw Puata off the second floor, and shot him. As of December, there were no reports of arrests in either case.

In 2001 an indigenous group, known as “Los Justicieros,” was accused of implementing vigilante justice. In July 8 members of this group were sentenced to 8 years in prison for kidnaping a judge.

There was no update in the case against vigilantes for the March 2001 murder of Patterson Manzano. The case remained stalled in the court system.

b. Disappearance.—There were no reports of politically motivated disappearances and no disappearances attributed to the police.

Nine policemen and one civilian were convicted for the November 2001 murders of Elias Elint Lopez Pita and Luis Alberto Shinin Lazo: Five for premeditated homicide, two as accomplices, and three as accessories after the fact.

Criminal kidnaping for profit continued to be a problem in the northern regions that border on Colombia. There were reports of extortions and threats of kidnaping of ranchers, farmers, and businessmen. There were no reliable estimates of the number of such extortions or kidnapings—often attributed to Colombian armed gangs—since many victims did not report the crimes for fear of retribution.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and similar forms of intimidation and punishment; however, the police continued to torture and abuse suspects and prisoners, usually with impunity.

The CEDHU published detailed reports on suspects who reported being tortured by specific police officers. Through November it had registered 23 cases of torture involving 64 victims and had noted complaints of “physical aggression” by police or security forces against a total of 312 persons. The Permanent Committee for the Defense of Human Rights (CDH) reported 10 cases of torture by police and 70 cases of torture by prison guards between January and September in Guayas Province

alone. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them. In May five persons testified that police in the city of Cuenca submerged them in freezing water until they confessed to committing crimes. A special commission was formed to investigate the accusations, and as of December, four policemen were under investigation.

In June Rodrigo Ron, former police superintendent for the province of Pichincha, died in prison under suspicious circumstances. According to the authorities, he died after he fell in his cell. However, an autopsy detailed bruises on many parts of his body, broken ribs, and a 2-inch cut in the back of his head. Ron had been accused of being the leader of a band of car thieves. After the press revealed inconsistencies between the initial story and the autopsy, prison authorities began an investigation. By year's end, the case was under investigation by a prosecutor, but no charges had been filed.

No action was taken in the February 2001 case of the alleged torture of warehouse clerk Jose Ramires by members of the National Police and the Air Force Combat Command in Guayaquil, and none appeared likely.

There were complaints that security forces used excessive force during demonstrations and that protesters were beaten while in detention. (*see* Sections 1.a. and 2.b.).

Police corruption was also a problem. Charges were dropped in April against former Guayas Police Chief and Intelligence Director General Abraham Correa for drug trafficking in the case against drug trafficker Carlos Hong. Correa frequently had visited Hong's residence and business and had intervened to free Hong's wife when she was arrested. One of Correa's subordinates still faced charges in the case. A total of 150 police officers were fired in 2001 for infractions related to human rights violations or corruption.

There was no activity in the cases of police officer Freddy Veloz and off-duty corporal Miguel Noriega who in 2000 had been accused, respectively, of rape and of shooting and wounding another person.

Unknown parties set off 14 small bombs during the year. On September 25, pamphlet bombs exploded in Guayaquil at the headquarters of the Social Christian Party and at a branch office of Ecuador's largest bank. One individual was injured. Pamphlets left at both sites said that the "Revolutionary Militia of the People" was responsible.

Conditions in prisons and detention centers generally were poor and tended to be worse in the tropical coastal areas than in the temperate highlands. Overcrowding was a chronic problem elsewhere. According to the National Judiciary Board, in September there were 9,641 inmates incarcerated in facilities originally designed to hold 6,571 prisoners. In Manabi Province, where 3 prisons were built to hold 390 prisoners, there were 620 inmates in September. Prison authorities routinely investigated deaths in custody. During the year, a number of prisons experienced serious outbreaks of disease, including meningitis. In 2001 Congress increased the penalties for serious offenses in an attempt to curb rising crime. Prison officials feared the measures would exacerbate overcrowding, but overcrowding did not increase significantly. Pretrial detainees are not held separately from convicted prisoners. There are no separate facilities for repeat offenders or dangerous criminals, nor are there effective rehabilitation programs. Construction of new prisons was underway. During the year, the daily amount allocated for prison rations increased from 70 cents to 75 cents per inmate.

The Constitution requires that prisoners charged with lesser offenses (those carrying a maximum sentence of 5 years or less) and who have been detained for more than 1 year without a trial obtain their freedom immediately. By August approximately 2,420 inmates had been released under this law since it went into force in 1999.

Inmates in a number of prisons protested against a proposed change to sentencing guidelines. Inmates sentenced for a number of less serious crimes routinely serve only half their sentence. The proposed change would have mandated increased jail time for these prisoners. In February prisoners began protests, including hunger strikes, and in May inmates in a Quito prison held approximately 300 visitors hostage. The proposal was dropped by the Attorney General on May 30, and the prisoners' protests ended.

At year's end, women constituted 9 percent of the total prison population. Women were held separately from men, and conditions were notably better in the women's prison in Quito than in other facilities. There also were separate facilities for juveniles. Children in these facilities often faced abuse.

The Government permitted prison visits by independent human rights observers. The National Police Directorate Specializing in Children (DINAPEN) served as a monitoring group for preventing abuse in prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and the Penal Code provide that no person may be deprived of liberty without a written order from a governmental authority; however, the authorities often violated these legal protections in practice, and arbitrary arrest and detention remained problems. The law requires the authorities to issue specific written arrest orders within 24 hours of detention—even in cases in which a suspect is caught committing a crime—and the authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions were brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period of time before being released. Bail generally is not available, and the law prohibits it in cases of narcotics and major offenses (i.e., offenses that “affect or put at risk” the public, punishable by 3 to 35 years imprisonment).

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional cases of this practice. Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Investigative detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented. The new Criminal Procedures Code limits immediate detention to 48 hours for suspicion of committing a crime and establishes preventive detention of 6 months for minor offenses and 12 months for major offenses once trial has begun.

There were mass arrests during protests in January and February (see Sections 1.a. and 2.b.). During the January protests, according to Amnesty International, police detained over 200 protesters some of whom reported being beaten during their detention. The authorities arrested approximately 100 persons during the state of emergency in Sucumbios and Orellana Provinces in February and early March. Most were released in early March.

The Constitution prohibits forced exile, and the Government does not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice the judiciary was susceptible to outside pressure and corruption. Despite continuing efforts to depoliticize and modernize the court system, the judiciary continued to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure, or in some cases, the payment of bribes. A 2001 survey by the Latin American Corporation for Development revealed that 54 percent of judges believed that other judges were corrupt. There were lengthy delays before most cases came to trial.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicature Council, which is charged with administering the court system and disciplining judges. There also are military and police tribunals that have the same status as circuit courts, while criminal, provincial, and cantonal (county) courts serve as courts of first instance.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The 1998 Constitution places both police and military justice under the control of the Supreme Court. However, the three systems have not yet been integrated, although weak efforts to do so continued.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In 1998 the Supreme Court supervised the selection by open competition of all appellate judges. Between January and September, the Judicature Council that took office in 1998 received 891 complaints against various judges. Thirty judges were dismissed from their posts during the year. There are over 55,000 laws and regula-

tions in force. Many of these are conflicting, and judges have been known to pick and choose from archaic legislation in an arbitrary or capricious manner. The resulting lack of clear rules contributes to what widely is referred to as “juridical uncertainty.”

The failures of the justice system contributed to a growing number of cases in which communities took the law into their own hands. Lynching and burnings of suspected criminals by citizens and quasi-official groups continued (*see* Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of major cities, where there is little police presence.

The law provides for due process rights for criminal defendants, but the authorities, including the Chief Prosecutor’s office, often did not observe these rights in practice. By law the accused is presumed innocent until proven guilty, and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are almost no attorneys available to defend the large number of impoverished suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest; however, in practice initiation of the trial phase can take years. Nearly half of all incarcerated persons had not been tried and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

In July 2001, a new Criminal Procedures Code went into effect and fundamentally changed the criminal justice system from an inquisitorial system to an accusatorial system. Under the new system, the Chief Prosecutor’s office is to investigate and prosecute crimes, while the role of judges is to become neutral arbiters presiding over oral trials. Previously, judges and their staffs investigated crimes with the help of the police while the public prosecutors (“fiscales”) monitored the judges’ progress. Under the new system, prosecutors have wide discretion in deciding which cases can proceed. The judiciary now hears criminal cases in oral trials, compared with the previous slow, predominantly written inquisitorial system. The National Police continued to work as investigators, but now are under the direction of the prosecutors. There are no juries in the justice system. The new code is intended to strengthen the justice system by improving due process and enhancing the rights of the accused through measures such as habeas corpus and limits on preventive detention (*see* Section 1.d.). In December the Government authorized the formation of an organizing committee to coordinate implementation of the abrupt change in roles, functioning, and procedures for the criminal justice system. The supplies and training available remained inadequate to meet the newly expanded role of the prosecutor’s office.

The 1998 Constitution also explicitly recognizes the indigenous communities’ right to exercise their own system of justice, based on their traditions and customs. However, the law does not yet specify how this is to work in practice. This parallel system has raised questions of both jurisdiction and conformity to the right to a fair trial.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, government authorities generally respected these prohibitions, and violations were subject to effective legal sanctions. Wiretapping by the national police to investigate crimes is legal with a court order. However, members of the police did conduct wiretapping that is not officially sanctioned, in part due to a lack of specific procedural guidance.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these provisions in practice; however, there were some significant exceptions.

Individuals criticized the Government publicly and privately without fear of reprisal. There is a free and vigorous press. Ownership of the media is broadly based, and editorials represented a wide range of political views and often criticized the Government. However, some degree of self-censorship in the print media occurred, particularly with respect to politically sensitive issues or stories about the military and its related industries. Self-censorship appeared to have operated in the media coverage of the labor dispute on a banana plantation owned by wealthy businessman and presidential candidate Alvaro Noboa (*see* Section 6.b.). This dispute received little coverage in the national media, despite Noboa’s economic and political prominence. In addition, most elements of the media were influenced by economic considerations and tended to reflect the narrow, regional interests of their owners.

All of the major media organs—newspapers, radio, and television—are locally and privately owned, except for one government-owned national radio station. The law

limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government may and did require television and radio to broadcast programs produced by the Government featuring the President and other top administration officials.

According to the Inter-American Press Association, during the state of emergency that occurred in Sucumbios and Orellana Provinces in February (*see* Sections 1.a. and 2.b.), the Government ordered four radio stations to stop broadcasting anything other than music for 3 days, in the interest of public security.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice; however, there were some limits, and security forces used force to quell some demonstrations, resulting in deaths and injuries (*see* Sections 1.a. and 1.c.). Public rallies require prior government permits, which generally were granted, although exceptions occurred.

In January there were significant protests around the country against an increase in fuel prices (*see* Sections 1.a. and 1.d.). Police used tear gas, detained approximately 200 protesters, killed one person; at least 9 others suffered mostly minor injuries. In February and March, demonstrators blocked roads, and disrupted business in the Amazonian provinces of Sucumbios and Orellana (*see* Sections 1.a. and 1.d.). Police and military forces again used tear gas, killed 2 persons, injured several others, and arrested approximately 100 demonstrators. There was no official review of the level of force used to restore order. In the cases of the killings, there was no indication that the demonstrators posed a serious threat to the police.

Numerous other labor and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads (*see* Section 2.d.). In general the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government does not require religious groups to be licensed or registered unless they form non-governmental organizations (NGOs) that engage in commercial activity.

The overwhelming majority of the population consider themselves to be Roman Catholic, although many citizens either did not regularly practice the religion or followed a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allowed missionary activity and religious demonstrations by all religions. The Government did not permit religious instruction in public schools; private schools are permitted to teach religion, as are parents in the home. There are no restrictions on publishing religious materials in any language.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice; however, frequent military and police roadblocks often presented problems for travelers using public transportation, especially at night. Protesters often blocked roads (*see* Section 2.b.). The Government requires all citizens to obtain exit visas when traveling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law provides for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

The Foreign Ministry reported that for the year there were 6,270 applications for refugee status. Since January 2000, a total of 10,958 individuals had applied, and at year's end, 5,595 applicants awaited determination of their status. During the year, the authorities denied 1,365 applications and granted 1,713. Approximately 99 percent of these refugees and applicants were Colombians; according to the UNHCR, the majority of displaced Colombians were impoverished peasants fleeing fighting, but some were adolescents escaping forced recruitment by illegal armed groups in Narino and Cauqueta. Most displaced persons still came from Putumayo and transited Sucumbios, Quito, and Tulcan to return home. The Government and the

UNHCR developed a plan to cope with a potential refugee influx into Sucumbios Province of up to 10,000 persons.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In October a new Congress was elected, and in November voters selected Lucio Gutierrez in the second round presidential election. Election observers from the Organization of American States, the European Union, and the Ecuadorian NGO Citizen Participation termed the elections peaceful, free, and fair. President-elect Gutierrez will assume office on January 15, 2003, succeeding Gustavo Noboa. The President's term is 4 years, and the President may not serve consecutive terms.

Deputies are elected to Congress for 4-year terms. Several parties were represented in the 100-member Congress, and no one party dominated. The Social Christian Party had the most seats (26). There were also three other major parties and six smaller parties represented in Congress. Eighteen members of Congress ran on an alliance of two or more parties.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to Congress, the presidency, or the vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, the party must be eliminated from the electoral registry. Twelve parties were registered.

No specific laws prevent women or minorities from attaining leadership positions in government. President-elect Gutierrez won the election in alliance with Pachakutik, the largest indigenous political party. However, few women, indigenous people, or Afro-Ecuadorians occupied senior positions in government. A 1998 law requires that in 2000 at least 30 percent of the candidates for Congress and some local positions be women, and that in each subsequent election an additional 5 percent of the candidates be women (for example, 35 percent in 2002), until 2008 when 50 percent of the candidates are to be women. Women held 17 of 100 seats in Congress, the largest proportion in the country's history. President-elect Gutierrez named four female cabinet ministers, including the first female Minister of Foreign Affairs.

The indigenous movement, which previously shunned politics, formed the electoral movement "Pachakutik" and has run candidates for national, provincial, and local office in all elections since 1996. In November's elections, Pachakutik formed an alliance with President-elect Gutierrez. Pachakutik has five members in Congress, and an additional nine members of Congress ran on an alliance ticket that included Pachakutik. Pachakutik is associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). Indigenous members of the National Constituent Assembly and their supporters won important constitutional protections for indigenous rights in the 1998 Constitution. President-elect Gutierrez named two indigenous cabinet members.

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 restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government's record on specific cases. The Government has contracted with the ALDHU to provide mandatory human rights training to the military and the police.

The offices of three human rights groups were broken into between June and August. The nature of the break-ins indicated that these were not simple robberies. Files were opened, laptop computers were turned on but not stolen, and in one case a computer hard drive was stolen. The police investigations appeared to be superficial and no arrests were made.

In September during a press conference in Quito, a visiting senior U.N. official publicly questioned President Noboa's grasp of human rights following Noboa's August criticisms of "some" human rights groups for "protecting criminals" and "threatening national security."

The office of the Ombudsman ("Defensor del Pueblo") was created in 1998 to ensure ongoing attention to human rights problems; however, some observers criticized its lack of independence in practice. In 2000 Congress removed the Ombudsman from office on charges of fraud for acts that he committed while he was acting Attor-

ney General, and Congress has not named a permanent replacement. Claudio Mueckay continued as acting Ombudsman at year's end. In November the office of the Ombudsman completed a new procedures manual that will be used to ensure that the procedures of all local ombudsman offices throughout the country are uniform.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of NGOs contributed to development of this plan, and the U.N. contributed funds to support it. The Government continued to implement various aspects of the plan, including training of the Congress on human rights matters, seminars, publication of documents, and a contingency plan for refugees. In October several prominent human rights NGOs publicly criticized the Government's lack of progress in implementing the plan. In December the Government released its "Human Rights Operative Plan" which described possible mechanisms for implementing the National Human Rights Plan.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, or social status. In addition, the 1998 constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. Congress has been only partially successful in carrying out this mandate. Women, indigenous people, and Afro-Ecuadorians continued to face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, abuses were widespread. The Law Against Violence Affecting Women and Children criminalized spousal abuse, including physical, sexual, and psychological abuse; created family courts; and reformed the Penal Code to give courts the power to remove an abusive spouse from the home. The law also gives legal support to the Government's Women's Bureau in cases of sexual harassment in the workplace.

The Office of Gender, in the Ministry of government, reported 50,794 cases of sexual, psychological, or physical mistreatment of women in 2000. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. Some communities have established their own centers for counseling and legal support of abused women. The Government addressed such problems through its Women's Bureau; however, although the Bureau can accept complaints about abuse of women, it has no authority to act on the complaints but refers cases to the prosecutor's office. The Women's Bureau has projects in all provinces.

Many rapes were not reported due to the victims' reluctance to confront the perpetrators. The penalty for rape is up to 25 years in prison. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. In 2001 Congress increased the penalty for rape where death occurred to 35 years in prison.

Sexual harassment in the workplace was common. Typical cases of sexual harassment reported in the press involved instances where a supervisor solicited sexual favors from an employee.

Regulated adult prostitution is legal so long as the businesses are registered with the Government and follow health regulations.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleged that culture and tradition inhibited achievement of full equality for women. There were fewer women than men employed in professional work and skilled trades, and pay discrimination against women was common.

The Ecuadorian Women's Permanent National Forum included more than 320 women's organizations and promoted social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provides support for approximately 500 women's organizations, many of which promoted social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operated in 22 provinces, promoted similar themes relating to women's rights, with emphases on political participation and human rights. It also focused on young women and Afro-Ecuadorian women.

Children.—The Government did not take effective steps to provide for the welfare of children. The Constitution requires that children achieve "a basic level of education," estimated at 9 years of school; however, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the

economic needs of families, the Government rarely enforced this requirement in practice. The National Statistics Institute reported in 2001 that 1 out of 6 citizens between the ages of 13 and 20 had not completed the sixth grade. Education is free. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount was spent. The Government has programs in 18 urban areas that provide families with educational subsidies as an incentive to keep children in school. In rural areas, many children attend school only sporadically after 10 years of age to be able to contribute to household income as farm laborers (*see* Section 6.d.).

There is no societal pattern of abuse against children.

Child prostitution was a problem (*see* Section 6.f.)

Government resources to assist children traditionally have been limited. Approximately 61 percent of children under the age of 5 years are malnourished. After declining in previous years, it appeared that government spending on education slightly increased during the year.

More than 20 NGOs promoted child welfare. Several private organizations were very active in programs to assist street children, and UNICEF also ran a program in conjunction with the Central Bank. The children of the poor often experienced severe hardships, especially in urban areas.

Persons with Disabilities.—There was no official discrimination against persons with disabilities in employment, education, or the provision of other state services. The Constitution recognizes the rights of persons with disabilities. In April 2001, Congress passed legislation to promote the rights of persons with disabilities, including access to education, employment, transportation, and communication. However, the Government has few resources to ensure access to these services in practice. In September the U.N. awarded the country the Franklin Delano Roosevelt International Disability Award in recognition of its creation of a national council and a national plan for persons with disabilities.

Indigenous Persons.—While at least 85 percent of all citizens claim some indigenous heritage, those who maintain their indigenous cultural identity and live in indigenous communities comprise between 15 and 20 percent of the total population. The vast majority of indigenous citizens reside in rural areas, including the highlands and the Amazonian provinces, and most live in varying degrees of poverty. A 2000 government study found that 79 percent of indigenous children lived under the poverty line. Land is scarce in the more heavily populated highland areas, where high infant mortality, malnutrition, and epidemic disease were common. Electricity and potable water often were unavailable. Although the rural education system was seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people also have the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGOs, and mounted protests (including kidnaping oil workers in December) in their attempts to win a share of oil revenues and a voice in exploitation and development decisions. The Constitution expressly recognizes the indigenous communities' right to be consulted on, but not the right to approve, oil exploration and development. The communities tended to be consulted on such matters, although their wishes were not always met. Oil companies increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continued to face criticism from indigenous groups that environmental damage continued.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the Government to assist them, indigenous people continued to suffer discrimination at many levels of society. With few exceptions, indigenous people were at the lowest end of the socioeconomic scale.

Following protests in January and February 2001, the three main indigenous groups—CONAIE, the Federation of Indigenous and Black Peasants of Ecuador (FENOCIN), and the Federation of Evangelical Indigenous of Ecuador (FEINE)—tabled 23 topics for discussion with the Government, including the claims by indigenous groups for indemnities over lives lost during the protests. After President-elect Gutierrez won in alliance with the mostly indigenous political party Pachakutik, the talks were discontinued.

CONAIE was at the forefront of protests in 2000 that toppled President Mahuad. CONAIE also attempted to arrange a popular referendum and engaged in public demonstrations to protest government economic austerity measures and to urge the repeal of economic modernization laws involving privatization of state-owned enterprises.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffered widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There were no special government efforts to address these problems.

Five major Afro-Ecuadorian organizations were active in the country; the largest was the National Afro-Ecuadorian Confederation, with headquarters in Quito. It estimated that Afro-Ecuadorians accounted for more than one million persons, or approximately 9 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continued to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations noted that despite the absence of official discrimination, societal discrimination, including stereotyping, continued to affect them. For example, they asserted that the police stop Afro-Ecuadorians for document checks more frequently than they stop other citizens.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and Labor Code provide most workers with the right to form trade unions. The labor code does not explicitly prohibit employers from interfering in the establishment or functioning of worker organizations; however the labor code explicitly prohibits employers from dismissing workers while they are forming a union or negotiating a collective contract, although the penalties for violations are relatively minor. Members of the police and the military and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms sets the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. In June the ILO again criticized the 30-worker minimum and called for the Government to take the necessary measures to amend its labor code. In its 2002 Annual Survey of Violations of Trade Union Rights, the ICFTU reported that 60 percent of the enterprises in the country employed fewer than 30 workers, with approximately 1 million workers excluded from organizing a union. Although the Congress debated additional labor reforms, labor law remained in flux because the Constitutional Court ruled in 2001 that some recent labor legislation was unconstitutional (*see* Section 6.e.). The court's ruling nullified several articles that the Government stated provided flexibility to employers but that some observers claimed undercut constitutional protections of worker rights.

Some companies have taken advantage of the law that prohibits unions from organizing at companies that have less than 30 employees by sub-contracting with several shell companies, each of which has less than 30 workers. Under the Labor Code, these subcontracted workers have no legal right to freedom of association or right to bargain collectively with the companies that ultimately benefit from their labor, nor do they have legal protection against anti-union discrimination.

Labor laws intended to protect workers' rights to freedom of association and to form and join trade unions are inadequate and failed to deter employers from retaliating against workers for organizing. Neither the Constitution nor the Labor Code requires reinstatement of workers fired for union activity. The Government's failure to enforce its labor laws and its lack of sufficient legal protection for workers' rights allowed employers to violate workers' rights with impunity.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintained membership in some labor organization.

Under the law, unions may form freely (if the company has the requisite 30 employees) and join federations or confederations, and three of the large labor centrals maintained international affiliations.

The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board that consists of one representative of the Ministry of Labor, two from the union, and two from management.

b. The Right to Organize and Bargain Collectively.—The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium-to-large industries. Approximately 12 percent of the work force was organized. Most of the economically active population was employed in the agricultural sector or the urban informal sector; the vast majority of these workers were not organized.

Although the labor confederations were politically independent, the two largest single labor unions, the National Union of Educators (UNE) and the Union of Social Security Workers, were allied with the Democratic Political Movement, a communist party. There are five large labor confederations or centrals; no central was connected firmly to any one political party, and there were no ties between the Government and any labor union.

The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements covered only one-quarter of the approximately 12 percent of the work force that is organized. A 2000 labor law allowed businesses to hire workers on “individual contracts,” but the practice has not become prevalent because Congress began a review of the law and has not clarified its status.

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by only one labor union. It prohibits discrimination against unions and requires that employers provide space for union activities upon the union’s request. If the Ministry of Labor rules that a dismissal of an employee is unjustified, it can require the employer to pay indemnities or separation payments to the worker of 125 percent of a month’s salary for each year worked, although the reforms set a cap on such payments. These payments were relatively low for workers earning the minimum wage (i.e., payments of \$400 or less), and the law does not require reinstatement of workers fired for anti-union activity. Workers generally were protected against antiunion discrimination only by pressure from the union. The ILO Committee of Experts found that the imposition of a fine “provided for by law in all cases of unjustified dismissal, when the real motive is . . . trade union membership or activity” is an inadequate protection against anti-union discrimination.

Employees also worked on temporary contracts, especially in the agricultural sector. While the Labor Code establishes a cap of 180 consecutive days for each contract, it does not prohibit the use of consecutive 180-day contracts. Some “temporary” workers may work for the same company (often for different sub-contractors of the same company) for an extended period of time under a series of short-term contracts. In practice it was difficult to organize temporary employees on short-term contracts. Since the Labor Code does not recognize temporary workers, they do not enjoy the same level of protection offered to other workers.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code limits solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In some industries, during a legal strike, workers may take possession of the factory or workplace (thus ending production at the site) and receive police protection during the takeover. However, in other industries, such as agriculture, the law requires a 20-day waiting period from the day the strike is called. During this time, workers and employers must agree on how many workers are needed to ensure a minimum service, and at least 20 percent of the workforce must continue to work in order to provide essential services. The Labor Code provides that “the employer may contract substitute personnel” only when striking workers refuse to send the number of workers to provide the minimum necessary services. The law does not explicitly prohibit the hiring of strikebreakers by subcontractors or other third parties that are not legally the striking workers’ employer; however, the Labor Code prohibits an employer from contracting substitute workers during a strike, although in practice this law was not enforced. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation. The law does not provide public workers with the right to strike and includes a provision that striking public sector workers are liable to between 2 and 5 years in prison; however, there were frequent “illegal” strikes. The Government occasionally took action against striking public workers and, during the year, ordered striking public health workers back to work.

There were several significant strikes during the year. On May 6, workers at the Los Alamos banana plantation, owned by presidential candidate Alvaro Noboa, went on strike to protest poor working conditions. On May 16, between 200 and 400 men attacked the striking workers. Several workers were injured and one worker had his leg amputated as the result of a gunshot wound. The police arrested 16 of the attackers, but they were released on habeas corpus. However, the prosecutor’s inves-

tigation did not address the primary claims made by the workers that they were threatened at gunpoint and that several were wounded by the attackers. In October the prosecutor charged the 16 individuals (who claimed to be plantation guards) with misuse of firearms and wounding of a police officer. Labor arbitration panels ruled against the strikers on the grounds that they had not met legal requirements for a strike, and in October the Superior Arbitration Panels rejected the workers' appeal.

Public health workers, including doctors and nurses, went on strike in February and July to demand higher wages and better working conditions.

The 1990 Maquila Law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries. The maquila system allows a company and its property to become an export-processing zone wherever it is located. There were no unions or labor associations in the maquilas. Most workers were hired on temporary contracts by the employer to complete a specific order. Many such "zones" have been established; most were relatively small and were dedicated to textiles and fish processing.

c. Prohibition of Forced or Bonded Labor.—The Constitution and the Labor Code prohibit forced or bonded labor, including by children, and there were no reports of it in general; however, there were reports of children forced into prostitution (see Section 5)

d. Status of Child Labor Practices and Minimum Age for Employment.—In December President Noboa signed a new law on minors that includes a section on child labor. The new law raises the minimum working age for minors from 14 to 15, for all types of labor. It also reduces the maximum hours a minor may work to 6 hours per day, and 5 days a week. The law prohibits minors from working in hazardous conditions, including in mines, with toxic or dangerous substances, or with dangerous machinery. Employers are required to pay minors at least 80 percent of the wages received by adults for the same type of employment. The law also increases the penalties for illegal child labor. The parents or guardians can be fined \$50 to \$300 and the employers \$200 to \$1,000 for participating in child labor. In cases of repeated infractions the employer's business can be closed.

The Government formed the National Committee for the Progressive Eradication of Child Labor in 1997—with a membership including government agencies, and business and labor organizations—charged with formulating a national plan for the eradication of child labor. During the year, the Committee worked with the ILO's International Program on the Elimination of Child Labor to conduct several industry specific studies on child labor.

In practice the Ministry of Labor and the Minors' Tribunals fail to enforce child labor laws, and child labor is prevalent. Despite the economic recovery over the past 3 years, the situation has not improved substantially, in part due to the emigration abroad of many parents who have left their children behind. Urban child labor has increased with the migration of the rural poor to the cities. A 2000 UNICEF report estimated that almost half of the children between the ages of 10 and 17 worked. The National Statistics Institute (INEC) reported that in 2001 over 130,000 children 14 years old or younger worked. A separate INEC study in 2001 reported that 455,000 children under the age of 15 worked.

In rural areas, young children often must leave school at an early age to help out on the family's plot of land. More than 60 percent of all children live in rural areas and did unpaid agricultural work for their families. In April Human Rights Watch published a report of the labor conditions on banana plantations. The 45 children interviewed for the report described working long hours on the plantations in dangerous conditions and without the proper safety equipment for the pesticides that are used on the plantations. The Ministry of Labor did not devote adequate resources to investigate exploitative child labor practices.

The Ministry of Labor has designated a "Social Service Directorate" to monitor and control child labor in formal sector businesses such as factories. In some instances the Directorate applied sanctions, but in other cases, it merely helped to provide documents to child workers. In urban areas, many children under 12 years of age worked in family-owned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Other children were employed in commerce, messenger services, domestic service, and begging. Children as young as 5 or 6 years often sold newspapers or candy on the street to support themselves or to augment family income.

e. Acceptable Conditions of Work.—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust it. As of September, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$138 or 85 cents per hour in

the case of contract workers. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers worked in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor did not deploy sufficient resources to enforce labor laws. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. In 2000, reforms to the labor law gave nominally greater flexibility to employers for hiring part-time workers; however, this legislation was affected by a Constitutional Court decision related to workers' retirement benefits. The impact of the Court's decision remained to be clarified at year's end (*see* Section 6.a.).

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace for health reasons, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranged from a few days in major cities to much longer in the countryside.

The Social Security Institute enforces health and safety standards and regulations. In the formal sector, occupational health and safety was not a significant problem. However, there were no specific regulations governing health and safety standards in the agricultural sector and in practice there was no enforcement of safety rules in the small mines that make up the vast majority of the mining sector.

f. Trafficking in Persons.—A misdemeanor law specifically addresses trafficking in persons, and other laws could be used to prosecute traffickers; however, no one has yet been convicted under the trafficking laws, and there were reports that Ecuadorians were trafficked out of the country.

A misdemeanor law specifically prohibits trafficking and provides for penalties from 6 months to 3 years in prison, as well as fines. The Migration Law and the Penal Code provide for the imposition of sanctions on suppliers of false documents for purposes of travel or work. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. In 2000 Congress amended the Criminal Code to strengthen sentences for furnishing or utilizing false documents and for alien smuggling. Alien smugglers or traffickers can receive sentences from 3 to 6 years' imprisonment; the penalties range from 6 to 9 years if victims are injured, and a penalty of up to 12 years may be imposed if a death occurs. The law specifically exempts smuggling victims from prosecution. At year's end, no case had yet reached a verdict under the trafficking laws.

There were reports of prostitution by girls and boys under 18 years of age in urban areas, and there were reports of cases in which children were forced into prostitution (*see* Section 5).

No specific cases of trafficking were publicized during the year; however, human rights organizations suspected that trafficking occurred. In past years, Ecuadorian trafficking victims had been identified in Spain, Guatemala, Uruguay, Venezuela, and the United Kingdom. Although there were credible allegations that some government officials were involved in alien smuggling, there was no evidence that such officials facilitated or condoned trafficking in persons.

Since the beginning of its economic crisis in 1999, the country has had a high rate of emigration: Up to 800,000 persons (or 7 percent of the population) were estimated to have emigrated since 1998, primarily to the United States and Spain, most of them illegally. Illegal emigrants paid between \$8,000 and \$12,000 per person to criminal organizations to be taken to the United States, usually through Central America. Due to the extreme poverty of most of the emigrants, and the high cost of such trips, some emigrants were vulnerable to traffickers.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. In 1999 voters elected President Francisco Flores of the Nationalist Republican Alliance (ARENA) to a 5-year term. In generally free and fair elections in March 2000, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA maintains a working majority in coali-

tion with the conservative National Conciliation Party. Four other parties and three independents hold seats in the Assembly. The judiciary is constitutionally independent; however, it suffers from inefficiency and corruption. The Supreme Court and the Attorney General's office took initial steps during the year to address inefficiency and corruption in the judiciary.

The National Civilian Police (PNC) maintains internal security. The military is responsible for external security. The military provides support for some PNC patrols in rural areas, a measure begun in 1995 by presidential executive order in an effort to contain violence by well-armed, organized criminal bands, and also provides support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform school training for juvenile convicts. Civilian authorities generally maintain effective control of the military and security forces. Members of the police committed human rights abuses.

The free-market, mixed economy largely is based on services, agriculture, and manufacturing. The country's population is over 6.5 million. Although agriculture accounts for only 9 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 20 percent of the work force, estimated at over 2.6 million persons. Coffee and sugar are the principal export crops and used to be the main sources of foreign exchange. The sustained decline in coffee prices has depressed activity in this sector, and the largest sources of foreign exchange are now family remittances and maquila exports. According to the Salvadoran Coffee Council, the decline in coffee prices reduced employment in the end of year harvest by approximately 40,000 jobs as of the end of December. The manufacturing sector, which contributes 23 percent of GDP, employs 16.5 percent of the work force. The textile sector, especially the maquila (in-bond assembly or processing) plants in free trade zones, represents about 50 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth was estimated to reach 2 percent during the year. Inflation was expected to reach 2.5 percent. The official unemployment rate averaged 6.5 percent in the first 10 months of the year; however, the rate of underemployment (less than full-time work or total income below the minimum wage) during the year was estimated at about 29 percent as of late November. In January and February of 2001, two earthquakes killed over 1,100 persons, made over 1.2 million homeless, and caused over \$1.9 billion in damage. According to the Ministry of Economy's statistics and census office, during the first 10 months of the year approximately 37 percent of the population lived below the poverty level, compared to 38.8 percent in 2001.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no politically motivated killings or disappearances; however, some police officers committed killings. Some police officers used excessive force and mistreated detainees. Prison conditions remained poor, and overcrowding was a continuing problem. At times police arbitrarily arrested and detained persons. The PNC dismissed 372 employees and sanctioned 520 others. Lengthy pretrial detention remained a problem. The judiciary remained inefficient and hampered by widespread corruption. The Supreme Court and the Attorney General's office took initial steps during the year to address inefficiency and corruption in the judiciary. The Court dismissed 38 judges based upon formal notification by the Ministry of Education that they had not fulfilled the requirements for their degrees. The Attorney General asked the Court to lift the immunity of four judges whom he intended to prosecute. Impunity for the rich and powerful remained a problem. Violence and discrimination against women remained a serious problem. Discrimination against disabled persons also remained a problem. Abuse of children, child labor, and forced child prostitution were also problems. The Government did not protect adequately workers' rights to organize and bargain collectively. Trafficking in women and children was a problem. El Salvador was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by agents of the Government; however, members of the police committed some killings. The Office of the Inspector General of the PNC received allegations of police involvement in 10 homicide cases in the first 9 months of the year. At year's end, authorities were adjudicating whether police officers had acted criminally or in the line of duty.

In September a prosecutor charged PNC officers Douglas Ernesto Ventura Ramirez, Nehemias Castro Martinez and four civilians with the March shooting death of Darwin Alexis Lopez Hernandez in Canton Entre Rios, Colon. The prosecutor alleged that PNC officer Ventura paid to have the victim killed, because the victim had filed a complaint after Ventura had confiscated his bicycle 2 months before his death. In the initial hearing, the court provisionally dismissed charges against the police officers and a third defendant but ordered the trial to continue against the three other defendants. The PNC Inspector General's office conducted a review and provisionally closed the case based on the court ruling and evidence that the PNC officers had been in different locations at the time of the murder.

In May Victor Hugo Pena Hidalgo died 15 minutes after entering a cell in the detention center of a court in San Salvador, the Isidro Menendez Judicial Center. According to the prosecutor, Pena's physical examination upon arrival at the center showed he was in good health. His autopsy showed trauma to the abdomen with broken ribs and hemorrhaging. The prosecutor reported that neither jail officials nor his cellmates, who were members of a gang to which Pena had once belonged, heard any disturbances; therefore, the prosecutor theorized that Pena must have been beaten before his capture. The PNC Inspector General's office conducted an investigation. According to its report, the victim's mother said someone who was not a police officer had beaten Pena prior to his capture, causing him serious abdominal pain. Similarly, Pena's son said the police had not mistreated him. Based on this information, the Inspector General's office provisionally closed the investigation.

In July an unidentified assailant shot and killed Nelson Alfonso Argueta Amaya, president of the national federation of demobilized former civil war militia members. The prosecutor initially identified several possible motives for the crime, including a personal dispute over the victim's leadership of the organization. However, the PNC later ruled out a political motive. The investigation continued at year's end.

The PDDH received 30 complaints of attempted and/or completed unlawful killings by police during the year. The PDDH was investigating the cases at year's end.

In January a judge dismissed homicide charges against three police officers (Jose Antonio Moran, William Alexander Castillo Gonzalez, and Maria Rosibel Garcia) and one former police officer (Juan Carlos Ramos Benitez) for the March 2001 killing of Fernando Naves Mendoza in El Rosario, La Paz. The PNC fired Moran, Castillo, and Garcia in January following an internal disciplinary hearing regarding their involvement in the crime. A disciplinary tribunal had dismissed Ramos from the PNC in June 2001 for another offense.

In March a civilian jury found Air Force flight school cadet Carlos Mauricio Melara guilty of negligent homicide and acquitted Cesar Humberto Dorat for the May 2001 beating and killing of Erick Mauricio Pena Carmona. The judge sentenced Melara to 10 years and 8 months in prison. In his ruling, the judge attributed partial responsibility to the armed forces, saying the institution had not done what was necessary to prevent this type of incident. Both the prosecution and the defense appealed the verdict, and the appeals were pending at year's end.

A total of 19 inmates died in prison due to violence and illness during the year. During the year, the Attorney General's office prosecuted two prisoners for carrying out the 2001 murder of Eduardo Henriquez (aka Gigio); it charged one other prisoner with complicity and 15 with covering up a crime. The trial was underway at year's end.

In 2000 a public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Navidad Villalta. Following a preliminary hearing in November 2000, the trial was postponed on several occasions because either witnesses or the defendant failed to appear. At year's end, the trial had been rescheduled for March 2003.

On October 2, the Supreme Court agreed to consider a November 2001 complaint that the Attorney General, the Criminal Chamber of the Supreme Court, a criminal appeals court, and a justice of the peace had violated the constitutional rights of family members of the six Jesuit priests, their housekeeper, and her daughter murdered in 1989. Specifically, the complainants alleged that their rights to due process, access to justice, and a speedy trial had been violated by the defendants when they responded to the complainants' petition to prosecute the persons who instigated the killings. In the same ruling, the Supreme Court found inadmissible the complaint against the President. In January and March 2001, an appeals court had upheld a lower court's decision that the statute of limitations had expired in the Jesuits' case.

b. Disappearance.—There were no reports of politically motivated disappearances or of police involvement in kidnappings during the year.

Most disappearances were kidnappings for ransom. According to police statistics, 19 persons were kidnaped through mid December, a significant reduction from 49

kidnapings in 2001 and 114 in 2000. The PNC reported that 134 people were convicted of kidnaping during the year and sent to prison.

In November 2001, a court sentenced eight persons, including three former police officers, to 15 years in prison for the January 2001 kidnaping of prominent businesswoman Elizabeth Bahaia in Ahuachapan. In August a court convicted and gave the same sentence to two more individuals for the same crime; one was former police officer Mauricio Enrique Murgas Barrientos, who had been dismissed from the force by a PNC disciplinary tribunal in 2000. At year's end, Murgas Barrientos and four other individuals were standing trial for a second kidnaping of Bahaia in September 2001. Murgas Barrientos and another individual also faced charges of homicide for the murder of Bahaia's bodyguard, Jesus Antonio Garcia Sintigo. At the time of his arrest in 2001, Murgas Barrientos alleged that other police officers had been involved in the crime, but he did not give their names. In October 2001, the PNC moved its entire contingent based in Ahuachapan (approximately 100 persons) to San Salvador and replaced them with soldiers and police from San Salvador.

In March a court convicted nine persons, including two police officers (Jorge Alberto Rodriguez and Rigoberto Antonio Reyes) and a former police officer (Juan Antonio Lainez Quijano), for the 2000 kidnaping of businessman Rodrigo Zablah. They received sentences ranging from 10 to 26 years and 8 months in prison. The court acquitted a tenth defendant. In 2001 charges had been dropped against another police officer (Carlos Alfredo Lopez Rosales), a cooperating witness, and another individual. The PNC fired Lopez Rosales, Rodriguez, and Reyes in 2000 following a disciplinary hearing.

By year's end, the Supreme Court had not issued a ruling regarding the acquittal of PNC sergeant Tomasa Reyes Alvarado, former PNC sergeant Jose Azcunaga Segura, and a civilian charged in the 2000 kidnaping of a couple in Sonsonate. In August 2002, a PNC disciplinary tribunal cleared Reyes Alvarado.

In May a court exonerated former guerilla commander Raul Granillo, also known as Commander Marcelo, of charges in the kidnapings of Nelson Oswaldo Machuca Perez, Guillermo Alfredo Sol Bang, Kerim Eduardo Salume Babum, Alberto Antonio Hill Dutriz, and Andres Abraham Suster Castillejos between 1991 and 1995. The court convicted Diego Flores, a lower ranking former guerilla, of kidnaping, extortion, and possession of military weapons (charges stemming from all five cases) and sentenced him to 102 years in prison. It found Angela del Carmen Carrillo Palacios and Angela Carrillo Flores guilty of complicity. In November, an appeals court revoked the ruling of the lower court. The appeals court convicted Granillo in absentia of kidnaping and extortion and sentenced him to 63 years in prison. It convicted Carrillo Palacios and Carrillo Flores of kidnaping and extortion and sentenced them to 42 years in prison. The appeals court confirmed the lower court's exoneration of Oscar Armando Bernal Martinez and Mauricio Ernesto Martinez Bernal.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) acknowledged that neither the Government nor the Legislative Assembly would create a national commission to clarify what happened to children who disappeared during the war and whose whereabouts remain unknown. In December 2000, they accepted the Government's commitment to work with them to resolve these questions by forming a working group consisting of the Public Defender's Office, the Ministry of Foreign Affairs, the Salvadoran Institute for the Protection of Children, the National Secretariat of the Family, and the PDDH. In October 2001 the working group dissolved after Pro-Busqueda claimed that it was unable to receive cooperation from any of the organizations apart from the Public Defender's office, which was unable to procure any cooperation from the armed forces. Pro-Busqueda planned to push the Legislative Assembly again for the creation of a national commission.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices. During the year, the PDDH and the PNC Inspector General's office each received one complaint alleging torture by a police officer. Some members of the PNC continued to use excessive force or otherwise mistreated detainees.

On October 16, the police detained Deputy Inspector Abel Hernandez Cortez based on an order from the Attorney General's regional office in La Libertad charging him with committing torture and serious injury to Jose Antonio Dominguez. At year's end, the Inspector General's office had begun disciplinary proceedings against him.

In response to a report from the PDDH, the PNC Inspector General's office initiated an investigation into allegations that on November 28, riot police beat and then detained seven members of the Salvadoran Association of Municipal Workers who were blocking a lane of traffic in support of a health care strike. The riot police told

the PDDH that they used the force necessary to control the incident. The investigation was ongoing at year's end.

In March police officers shot at a group who were drinking alcohol in a home in Concepcion de Oriente and wounded Domingo Yanez Villatoro, injuring him seriously. In their report, the police claimed the civilians had threatened them with firearms. The PNC Inspector General's office initiated an investigation and remanded four police officers to a disciplinary tribunal. A prosecutor charged four officers with negligent injury. The defendants failed to appear for their trial in December, and the court ordered the trial to continue in their absence.

During the year, the PDDH received a total of 1,095 complaints against the PNC for all categories of human rights violations, compared with 1,142 in 2001. Of the 3,303 total complaints received, 766 were for violation of the right of personal integrity committed by government authorities during the year and in prior years, compared with 736 in 2001. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and inhuman treatment of detainees. The vast majority of these complaints involved the PNC and were categorized as mistreatment.

At year's end, 140 police officers were in prison. Of those, 90 were serving their sentences, and 50 awaited the conclusion of their trials.

During the year, the PNC dismissed 372 employees through ordinary disciplinary procedures and sanctioned 520 others for lesser infractions. PNC disciplinary authorities exonerated 503 PNC employees investigated for a variety of offenses.

The Internal Affairs Unit of the PNC, which reports to the Inspector General, investigates administrative complaints against police; transfers information on criminal activity by police to the Attorney General's office; and monitors criminal investigations of police. The Unit reports findings of administrative violations to the Inspector General and the PNC Director for disciplinary action. Individuals may appeal through disciplinary hearings in special police courts that are an internal, administrative mechanism of the PNC. These courts can punish guilty parties with disciplinary measures or remove them from the police force.

During the year, a special appeals board continued to review appeals by former PNC employees who were dismissed under expedited procedures authorized by the Legislative Assembly in 2000 (Decree 101). The police chief dismissed 1,000 officers during the 5 1/2 months that the special disciplinary authority was in force. A total of 295 officers appealed, and the special appeals board exonerated 42, who were reinstated. In addition, some of the fired officers filed legal complaints with the Supreme Court alleging that their dismissal under Decree 101 had violated their constitutional rights, a charge supported by the Human Rights Ombudsman's office (PDDH) and some NGOs. Independent observers of the expedited procedures alleged that some supervisors used the opportunity to remove innocent persons, such as pregnant women and personnel with whom the supervisors had personal differences.

In August 2001, a prominent women's rights organization asserted that sexual harassment was widespread within the PNC and that female officers were subject to violence within the police (*see* Section 5).

Human rights awareness is a standard component of the police officers' basic training program.

Prison conditions remained poor. The prison system has the capacity to hold 7,137 prisoners in 20 penal facilities. Overcrowding in individual facilities continued as the prison population increased for the third consecutive year. At year's end, 10,345 men were held in 17 prison facilities with a combined capacity of 6,812, and there were 31 men and 6 women in 3 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often are sent to regular prisons, where they may be placed together with violent criminals.

Gangs continued to exercise influence within the prison system. In December, a police official told the media that prisoners continued to run criminal activities from their cells. In December, prisoners rioted and killed two police officers during a routine search for contraband in a major metropolitan prison. One prisoner died after being shot, allegedly by a warden, during the riot. Prison authorities reported that there were 19 deaths in the prison system during the year: one prisoner was shot, allegedly by a warden, during a riot; one died of burns; four died from wounds caused by violence between prisoners; seven died from illness, including four HIV/AIDS related cases; one died of injuries to his spine and internal organs. In five cases, the prisons transferred the cadavers to the office of forensic medicine to determine the cause of death.

There are separate facilities for female detainees and prisoners. At the end of the year, there were 562 women in 3 women's prisons, which have a capacity of 262, and 87 women in prisons where most inmates are males. Conditions in the women's facilities are adequate but overcrowded.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government generally observes this requirement in practice. However, from June 2001 through April 2002 the PDDH found 9 juveniles in pretrial detention facilities that also housed adults. Also, 21 minors were housed in an adult prison under the supervision of the Salvadoran Institute for the Full Development of Children and Adolescents (ISNA). Gang violence in juvenile holding facilities is a problem. In April 2001, the authorities separated the different gangs in the country's juvenile correction centers into different facilities to mitigate violence between rival groups. ISNA (formerly the Salvadoran Institute for the Protection of Children - ISPM) reported a sharp reduction of gang-related violence in youth correction centers and an increased ability to implement education and reintegration programs following this change. Members of the Armed Forces provided reform school training for juvenile convicts. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permits prison visits by independent human rights observers, NGOs, and the media.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest; however, there were complaints that at times the PNC arbitrarily arrested and detained persons.

On April 15, the PNC arrested Esteban Ortiz Vasquez using an arrest warrant for Esteban Benito Ortiz. The detainee showed his identification documents to the police; however, they discounted the documents as false. The police brought him before a judge, who determined there was sufficient evidence to warrant detention during the investigation. Ortiz Vasquez spent 30 days in jail before a public defender convinced the judge of his identity and obtained his release. The judge found that the police had used flawed procedures and asked the PNC to conduct a disciplinary investigation.

During the year, the PDDH received 205 complaints alleging violations of personal liberty, compared with 178 complaints in 2001. The courts generally enforced a ruling that interrogation without the presence of counsel is coerced, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often are sent to regular prisons, where they may be placed together with violent criminals (*see* Section 1.c.). The law allows 6 months to investigate serious crimes before a judge is required to bring the accused to trial or dismiss the case. In exceptionally complicated cases, the judge or either party may ask the appeals court to extend the deadline for 3 months. However, many cases were not completed within the legally prescribed time frame. The Supreme Court reported that 5,568 inmates (more than half the prison population) were in pretrial detention at the end of the year (*see* Section 1.c.). According to the Supreme Court, the judicial system received an average of 111 criminal cases per day during the year, compared to an average of 134 per day in 2001.

The Penitentiary Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observes this prohibition.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. However, the judiciary suffers from inefficiency and corruption. During the year, the Supreme Court took initial steps to address these problems.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the entire court system. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council (CNJ). The CNJ is an independent body provided for in the Constitution to nominate, train, and evaluate justices. The Legislative Assembly elects, by a two-thirds majority, Supreme Court magistrates from lists provided by the CNJ and the National Association of Lawyers. Magistrates serve for periods of 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The system

also has criminal sentencing courts and penitentiary oversight courts. The former consider the evidence and testimony that have been gathered throughout the trial proceedings, judge innocence or guilt, and determine sentences. The latter monitor the implementation of sentences. (For cases that entered the judicial system before the penal code reforms of 1998, the trial court remains responsible for establishing sentences.) Through its Department of Judicial Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the CNJ, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. Juries are used in a particular phase of the prosecution. Most cases start with a preliminary hearing by a justice of the peace court, then proceed to the trial court, which determines if there is enough evidence to continue the prosecution and decides whether a jury or a sentencing court should hear the case. Justice of the peace courts provide an opportunity for conciliation as an alternative to trial proceedings for some types of cases. Almost all cases such as homicide, kidnaping, fraud, environment, drugs, or issues involving private property go to sentencing courts. Juries hear only those cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a judge decides the sentence. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial determination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

The Juvenile Legal Code requires that minors from 12 to 17 years of age be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity from the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well connected. According to the U.N. Secretary General's December 20 addendum to his report on Central America, "the justice system is often slow and many judges are still susceptible to political influence . . . many crimes go unpunished and effective access to due process is seriously limited, in fact, if not legally, for a large number of Salvadorans." Corruption in the judicial system contributed to impunity; however, the Supreme Court took some steps to address these problems. There were few, if any, reports of corruption in the Attorney General's office during the year. The improvement resulted apparently from the removal of unqualified staff in 2000 and 2001 through expedited disciplinary procedures.

In October the Attorney General asked the Supreme Court to lift the immunity of four judges whom he intended to prosecute. The Attorney General charged that judge Raul Edgardo Garcia Zuniga had used for his own benefit a vehicle that had been seized and was being held as evidence in his court. The Attorney General alleged that judge Alicia Gonzalez de Ortiz of Lourdes Colon allowed a defendant in a rape case to go free after he admitted guilt and paid a fine; the law does not allow the use of this "abbreviated procedure" in rape cases. He accused judge Jorge Anibal Arias Martinez of San Ignacio, Chalatenango of accepting payments to mediate cases rather than continue with a criminal trial. In December, the Supreme Court notified the Attorney General that it had dismissed Garcia and, therefore, he no longer enjoyed immunity. At year's end, the High Court had not ruled on the requests to lift the immunity of Judges Martinez and Ortiz.

The Attorney General accused Judge Ricardo Canales Herrera of misappropriation, through negligence, of approximately \$20,000 (185,000 colones). Canales had reported the loss of the money from his court's evidence storage room to the Attorney General and the Supreme Court and had requested the Court's help in strengthening security. The Court asserted that the judge had adequate infrastructure for storing the money securely. Canales renounced his immunity in October to expedite the investigation, and the Supreme Court dismissed him in November. Canales filed a complaint against the Supreme Court asserting that, in dismissing him, it had violated guarantees of due process and of equal protection under the laws. Presenting newspaper reports as evidence, he noted that there had been a multitude of losses from storerooms of other courts—including the Supreme Court itself—during the year, but no other judge had been investigated or disciplined. He maintained

that the Court was using this incident as an excuse to remove a judge who had criticized problems in the judicial system. A number of NGOs and other judges publicly defended Canales' record and supported his hypothesis.

In February a justice of the peace released from custody Narciso Ramirez, who was accused of running one of the largest alien smuggling operations in the region. Journalists reported that the judge and the defendant dined together in a local restaurant that night. Both individuals denied that they had been together. In searching Ramirez's property, prosecutors found a letter from the judge testifying to the good moral character of the defendant; however, the letter disappeared subsequently. The Supreme Court investigated the allegations and exonerated the judge, finding that he had applied the law correctly in releasing Ramirez on bail. The Court also found there was no evidence showing a personal relationship with the defendant. A judge hearing a case against Ramirez on separate charges in San Miguel ordered him detained without bail. He remained in prison at the end of the year.

In August the Legislative Assembly urged the Attorney General's office and police to continue the investigation of the 1999 rape and murder of 9-year-old Katya Miranda. Human rights groups charged that the investigation was flawed criminally, and that the prosecution was inadequate to ensure due process.

In November an appeals court definitively dismissed charges of fraudulent administration and use of false documents lodged against the former director of the Salvadoran Soccer Federation, Juan Sigfrido Torres Polanco, and it upheld the provisional dismissal of charges against him for embezzling public funds from that institution. A trial court previously had dismissed all charges against members of the Federation's board of directors, who were also defendants in the case stemming from the disappearance of \$3.5 million (30,520,000 colones) from the organization's coffers.

During the year, the Attorney General's office reported that, as a result of the expedited dismissal process for unqualified staff authorized by a 2000 law, it had dismissed 44 prosecutors, of whom an appeals board exonerated and reinstated 24. In addition to these dismissals, in December 2000 the Attorney General chose not to renew the contracts of 18 prosecutors and 24 administrative personnel suspected of involvement in anomalies within the institution. By the end of the year, the Attorney General had implemented more than half of the recommendations a review board had made in conducting an institutional review of his office in 2001, such as using new personnel selection and contracting procedures.

In September and October, the Supreme Court dismissed 38 judges based upon formal notification by the Ministry of Education that they had not fulfilled the requirements for their degrees. The action responded in part to a 2001 report from the Attorney General's office on its investigation of possible "irregularities" in the law degrees of 916 lawyers, including prosecutors, judges, and politicians. That report exonerated 12 of those investigated, charged 91 with criminal wrongdoing (forging signatures, falsifying records, etc.) and cited administrative irregularities in the remainder of the cases, mostly due to problems with course equivalencies after transferring from one university to another. During the year, the Attorney General's office brought charges against 13 persons for criminal wrongdoing in obtaining their law degrees. Two justices of the peace were convicted; one was given a 3-year suspended sentence. In six cases, the court dismissed the charges. At year's end, trial dates had been scheduled for five others.

The 38 judges dismissed by the Court fell into the category of administrative irregularities. All but one appealed the dismissals, insisting that they had fulfilled all of the requirements in place at the time and that it was wrong for the Ministry of Education to impose new standards retroactively. The Court upheld the dismissals in all of the cases. At year's end, it continued investigating 125 lawyers and 51 additional judges for irregularities in their titles. The dismissed judges appealed to the Inter-American Human Rights Commission.

NGOs and observers knowledgeable of the judicial system claimed that the Court was doing the minimum necessary to respond to public criticism, but it was not making a comprehensive effort to remove unqualified and corrupt judges. The Supreme Court emphasized that its Department of Judicial Investigation and the CNJ performed that function by scrutinizing judicial performance on an ongoing basis. Regarding the questionable degrees, the Court maintained it could only act on information provided by the Ministry of Education, which was the institution authorized to determine the validity of academic credentials.

In practice, the Court imposed few sanctions upon judges based upon the recommendations from the CNJ and the Department of Judicial Investigation. Of the 227 complaints filed with the latter during the year, the court found 29 inadmissible, suspended proceedings in 1 case, reprimanded 4 judges, and dismissed 40

judges—Ricardo Canales, Raul Garcia, and the 38 determined to have invalid legal titles.

Police, prosecutors, public defenders, and the courts continued to have problems adjusting to the 1998 legal reforms. Inadequate police coverage (due to limited resources) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system. In July witnesses in the trial of accused alien smugglers Edgar Campos and Blanca Rivas reported that defense lawyers had harassed them in an effort to deter their testimony. Prosecutors informed the judge hearing the case, and the information served as an important justification for keeping the defendants incarcerated during the trial. At year's end, the prosecutors planned to present criminal charges against the defense attorneys.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for a right to privacy, and government authorities generally respected this right in practice. The law requires the police to have a resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed, before entering a private dwelling.

Since 2001 the police can use undercover agents with the permission of the Attorney General and enter legally private property without a warrant when criminal activity is suspected. In addition, samples of blood and other bodily fluids can now be taken without the consent of the accused if a judge mandates it.

Neither the Attorney General nor a special legislative commission has identified who was responsible for illegal wiretapping activities conducted by the telecommunications company, TELECOM, in 2000.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Print and broadcast journalists from all major media outlets regularly and freely criticized the Government and reported opposition views. Opposition figures were interviewed routinely in the press and on television and radio. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations continued to complain that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy.

Some newspaper editors and radio news directors practiced self-censorship, according to practitioners and observers, by discouraging journalists from reporting on topics or presenting views that the owners or publishers might not view favorably. Journalists alleged that in July the new owners of RCS radio station closed the news department because the reporters' presentation of the news did not adequately reflect the owners' more conservative views. The owners maintained that they took the action for budgetary reasons. In October worker organizations and NGOs expressed concern to the Salvadoran Journalists Association that a major newspaper, La Prensa Grafica, had required them to change language in a paid advertisement about a controversial strike before it would publish the ad. Similarly, another major newspaper, El Diario de Hoy, had told the groups they would have to pay for the Government's anticipated response to their paid advertisement about the same subject. The newspaper explained that, as a result of a lawsuit, it had instituted a requirement that anyone placing an advertisement on a controversial topic had to leave a deposit to pay for a reply by an opponent, should a court order it. If no one claimed the right to reply within 30 days, the newspapers returned the deposit to the individual or group who placed the original ad.

During a demonstration on May 1, protesters assaulted several journalists after an opposition party leader made antagonistic public comments to and about journalists. The victims and other media maintained the opposition party leader had instigated the violence. The Inter-American Press Association (IAPA), the International Radio Broadcasters Association and leaders of the media condemned the verbal and physical attacks as a threat to freedom of the press. The Attorney General's office initiated an investigation.

In August the Legislative Assembly passed a National Defense Law that included an article requiring citizens to provide to government officials information considered necessary for national defense. The Salvadoran Journalists' Association and other critics objected strongly to that provision, asserting that it violated journalists' right to keep sources confidential. When the law went to President Flores for signature, he sent it back to the legislature with a recommendation to address that concern. The legislature removed the controversial article from the law. The modified

law retains a requirement that public officials provide information necessary for national defense.

In September the legislature approved reforms to the Organic Law of the Court of Accounts, the national auditing agency. Leaders of the media industry, the Human Rights Ombudsman, and other critics charged that the provision on public access to the agency's audits infringed on freedom of expression and citizens' right to access public information. The provision required that the institution make the audits public after all appeals had been exhausted. Critics maintained that, because appeals often dragged on for years, the measure would deny the public access to information for far too long. Even before the Assembly passed the reforms, the Court of Accounts refused to allow members of political parties and journalists to see audit reports that, by law, were public information. In November the President sent the law back to the legislature with suggested changes that removed the controversial language. However, NGOs expressed concern that the proposed replacement language reduced the universe of audits required to be made public and had the same effect of delaying public access until all appeals were exhausted. The legislature approved the president's proposed changes.

The IAPA identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources.

There are 5 daily newspapers with a combined daily circulation of more than 250,000 copies, and 16 television stations. Five independent and one government-owned and operated VHF television stations reach most areas of the country. Eight independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital and the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major national stations and a wide range of international programming. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the IAPA have claimed that the provision abridges press freedom.

There were no instances of censorship of books, other publications, films, or plays. The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for peaceful assembly for any lawful purpose, and the Government generally respected this right in practice. Public demonstrations were common and generally peaceful.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

In March 2001, the Supreme Court found constitutional all but four articles of a 1996 law governing the registration, regulation, and financial oversight of NGOs and non-Catholic religious groups that a group of affected organizations had challenged in court in 1998. The law remains in effect. However, the decision prohibits any official or judge from denying legal status to an NGO for behavior that violates social norms, morality, or public order as long as there are no violations of the criminal code. Some NGOs asserted that the Ministry of Governance delayed approval of legal status for controversial NGOs with human rights or political agendas. In August the Ministry of Governance refused to grant legal status to the Independent Monitoring Group of El Salvador, an NGO that monitors respect for labor rights in assembly factories (*maquilas*) (*see* Section 4.).

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

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

In July the Legislative Assembly passed a Special Law on Refugee Status, which implements the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law established a Refugee Status Determination Committee composed of representatives of the Social Unit of the Ministry of Foreign Affairs and the Migration Unit of the Ministry of Governance to adjudicate refugee status.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of

the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

In May the Supreme Court ruled unconstitutional an article of the electoral code that assigned a specific number of legislators to each department of the country, saying it violated the constitutional requirement for representation proportional to the population. One day before the Court announced its decision, the Legislative Assembly modified the law by allocating the number of legislators based on ranges of population (e.g. a department with 300,000 to 400,000 citizens is entitled to 4 legislators). A political party and an NGO protested that the change did not satisfy the constitutional requirement, and they noted that the timing of the vote showed that someone in the Court had leaked the information before the decision was made public.

Ten political parties, representing the full political spectrum, fielded seven candidates in the March 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March 2000, the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems. Women account for 51 percent of the population; however, they represented 49 percent of the registered voters in the March 2000 election. Of the 11 executive branch ministries and 3 constitutionally independent agencies, women headed 2, the Ministry of Foreign Affairs and the Human Rights Ombudsman's office. Women held a substantial number of vice- and sub-ministerial jobs. An estimated 40 percent of the country's judges were female. In March 2000, voters elected 8 women to the 84-seat legislature, a decrease from the previous Assembly's 14 women. One woman sat on the Assembly's 11-member governing board; there were 2 women on the board in the previous legislature.

Minorities, including indigenous people, are not barred from voting or participating in government and politics. In practice, only a few hundred Salvadorans identify as ethnic minorities, and no one who identifies as a minority holds a leadership position in the Government or the Legislative Assembly.

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

The Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGOs. However, it was sometimes reluctant to discuss worker rights issues with NGOs, and it refused to discuss the topic with the PDDH. Numerous domestic and various international NGOs operated freely. Domestic and international NGOs are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties (see Section 2.b.).

In August the Ministry of Governance refused to grant legal status to the Independent Monitoring Group of El Salvador (GMIES), an NGO that monitors respect for labor rights in maquilas. The Ministry of Governance based its refusal on the objections of the Labor Ministry, which asserted that government authorization of the GMIES' activities would constitute a tacit delegation of the Labor Ministry's responsibilities, something prohibited by law. The GMIES appealed the decision with both ministries, without success.

The principal human rights investigative and monitoring body is the Office of the Human Rights Ombudsman, who is elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the Constitution that defined its role.

In July 2001, the Legislative Assembly elected attorney Beatrice de Carrillo to serve as Human Rights Ombudsman. The position had been vacant officially for 17 months and in practice for 5 months. The institution's reputation and the quality and quantity of its work had declined since 1998, due to staffing gaps in the top position and the election in 1998 of an Ombudsman accused of corruption. A vehe-

ment, public dispute that began in 2000 between the acting Ombudsman and some employees exacerbated these negative trends. Indicating their lack of confidence in the institution, citizens filed fewer complaints with the PDDH in 1999 and 2000 than in previous years and relied more heavily on human rights NGOs. Public confidence in the PDDH initially appeared to recover following de Carrillo's election—there was an immediate 10-fold increase in complaints submitted. Many of these complaints (such as the right to water, or compensation claims of former combatants) did not fall into traditional human rights categories. During the year, the Ombudsman expressed frustration with the Government's unwillingness to respond to her agency's requests for information, as required by law, and to implement its recommendations. Government officials responded that the institution undermined its credibility by pronouncing on a wide range of issues that exceeded its mandate and by issuing resolutions on politically charged cases that had occurred many years ago. The Ombudsman insisted that all of the work performed by her institution fit within the 14 duties assigned to it by the Constitution. She explained that, because the PDDH had not issued resolutions on the old cases at the time they were submitted, the institution had to issue them now to close out the cases.

In January the PDDH submitted to the Attorney General's office a formal complaint stating that the Ombudsman had received death threats. According to the PDDH, the Attorney General's office took no action on the complaint during the year. The threats diminished during the year but increased again in December following the Ombudsman's controversial efforts to negotiate the release of four police officers held hostage in a prison following a riot.

During the year, the PDDH accepted 3,303 complaints of human rights violations, compared with 2,898 in 2001 (see Sections 1.a. and 1.c.). The rights most frequently alleged to have been violated included personal integrity and due process of law—766 and 520 complaints, respectively. During the year the PDDH issued 164 resolutions involving 235 complaints filed during the year and in previous years. Some of the resolutions addressed multiple complaints with similar characteristics (e.g. mistreatment by police). It upheld the charges in 107 resolutions; found the accused not to have been responsible in 45 resolutions; and resolved 12 cases using its good offices. In the remaining cases received during the year the PDDH had not determined whether the facts substantiated the allegations.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, or sex. In practice, discrimination against women, disabled persons, and indigenous people occurred in salaries and hiring. There were some instances of violence against homosexuals.

The NGO Entre Amigos reported that members of the municipal and National Civilian police regularly detained and harassed homosexuals and transvestites when they were out at night, although they were not engaged in criminal activity. The police countered that they monitored transvestites out at night because they had repeatedly been involved in crimes including prostitution, public nudity, and robbery. A homosexual employee of Entre Amigos reported that in August four PNC officers detained him in a vacant lot, told him homosexuals should not exist, beat him, and threatened they would do him more severe harm if he reported the crime. He reported the crime. However, in November, the Attorney General's office told him the case did not fall in its jurisdiction for investigation because it was a petty offense. The law requires the Attorney General's office to prosecute petty offenses as well.

In October the Legislative Assembly removed from the 2001 Law on Prevention and Control of Infection caused by the Human Immunodeficiency Virus a provision requiring job applicants to take HIV tests. During the year, NGOs, UNAIDS, and the Ministry of Health had expressed concern that this provision facilitated discrimination against infected persons and, in so doing, made it difficult for them to obtain employment. Removal of this provision makes pre-employment HIV tests optional, rather than mandatory. According to media reports, through late November the Atlacatl Foundation, an NGO, had registered six cases of people being fired after being diagnosed with HIV. In addition, the Foundation maintained that three institutions of higher education required HIV tests for students who wished to study health-related careers.

Women.—Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly is being recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the Attorney Gen-

eral's office, the Supreme Court, the Public Defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through the Salvadoran Institute for the Development of Women (ISDEMU), maintains a hot line as well as a shelter for victims of domestic abuse. The ISDEMU received 3,725 cases of domestic violence during the year, compared to 3,423 cases in 2001. Incidents of domestic violence and rape continued to be underreported for several reasons: societal and cultural pressures against the victim; a fear of reprisal; poor response to victims by the authorities; fear of publicity; and the belief that cases are unlikely to be resolved. However, the Criminal Code permits the Attorney General to prosecute in the case of a rape with or without a complaint from the victim. The 2001 Criminal Code reforms eliminated a provision allowing a victim's pardon to nullify the criminal charge. The penalties for rape are 6 to 10 years in prison. The law does not address specifically spousal rape; however, it can be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 451 cases of sexual aggression compared to 386 in 2001.

The law does not prohibit a person from working as a prostitute. However, it prohibits any person from inducing, facilitating, promoting, or giving incentives to anyone else to work as a prostitute. Prostitution is common, and there were credible reports that some women and girls were forced into prostitution (*see* Section 6.c.).

Trafficking in women and girls for purposes of sexual exploitation was a problem (*see* Section 6.f.).

The law prohibits sexual harassment; however, workers in export processing zones (EPZs) have reported sexual harassment (*see* Section 6.b.).

In August 2001, a prominent women's rights organization, CEMUJER, asserted that sexual harassment was widespread within the PNC. Citing a 2000 survey that it had conducted, the same NGO maintained that almost 60 percent of female sergeants had been victims of violence within the police. During the year, the NGO assisted three female employees of the PNC in bringing sexual harassment charges against superiors; the courts dismissed the charges against the defendants in all three cases. During the year the PNC Inspector General's office received two complaints of sexual harassment by police officers. In one case, it found the police officer and the PNC employee who had brought the charges shared responsibility for the infraction; as a penalty, both were suspended without pay for 12 days. In the other case, a PNC disciplinary court suspended officer Rafael Antonio Nunez without pay for 60 days as punishment for sexual harassment of a minor. There were reports that PNC supervisors used legislation intended to facilitate the removal of officers charged with crimes or incompetence to remove pregnant women from the force (*see* Section 1.c.). Some factories in the EPZs required female job applicants to present pregnancy test results, and they did not hire pregnant women (*see* Section 6.b.).

The Constitution grants women and men the same legal rights, and the Penal Code establishes sentences of 1 to 3 years in jail for public officials who deny a person's civil rights based on gender. The law prohibits pregnant women from performing strenuous activities in the workplace after the fourth month of pregnancy (*see* Section 6.e.). All women are entitled to 3 months of maternity leave—usually taken after the baby is born.

Women suffer from cultural and societal discrimination and have significantly reduced economic opportunities. Priority generally is given to men for available jobs and promotions and to sons for inheritances. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. A 2000 UN Development Program (UNDP) study reported a rural illiteracy rate of 38 percent for women and 34 percent for men. One of the factors that contributes to girls' leaving school is teenage pregnancy. In 2001, a former personnel officer of an autonomous government institution asserted that her supervisor had instructed her to give preference to men over women in hiring. The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate in labor relations. In practice it is difficult for employees to report such violations by their employers because they fear reprisals. In June 2000, the legislature ratified International Labor Organization (ILO) Convention 100, on equal remuneration; however, a UNDP study showed that men on average earned 14 percent more than women—\$250 versus \$219 (2,189 colones versus 1,913). The one sector in which there was an exception to this practice was in the EPZs and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (*see* Section 6.b.). However, even in this sector, men held the majority of positions in management and in departments where employees receive higher wages (cutting, ironing, etc.). Training for women generally was confined to low-wage occupational

areas where women already held most positions, such as teaching, nursing, home industries, and small businesses.

Several NGOs were engaged in promoting women's rights and conducted several rights awareness campaigns.

Children.—In July the Ministry of Education, the PNC, and ISNA instituted a program to address the problem of student violence in San Salvador. The police picked up students who were out of school unsupervised (often in bars, pool halls, or video game shops) during school hours and delivered them to ISNA. ISNA gave them psychological counseling about violence and supervised them until their parents or guardians took custody. Government officials reported that the measures reduced street violence and fights among students. Through the end of the school year in November, the police brought 195 youths to ISNA under this program.

The Government concentrated more on reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. With the encouragement of UNICEF, in September the National Secretariat of the Family submitted to the Legislative Assembly a new national policy of comprehensive attention for children and adolescents.

Education is compulsory through the ninth grade. Public education is nominally free through high school. The law prohibits persons from impeding children's access to school for failure to pay fees or wear uniforms. In practice, some schools continued to charge students fees to cover budget shortfalls, and the inability to pay these fees or pay for required books, uniforms, and activities prevented some poor children from attending school. The Ministry of Education continued to operate a hotline for the public to report school administrators who violated these laws. During the year, the Ministry required at least one school administrator to repay fees charged in violation of these regulations. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents withdraw their children from school by the 6th grade to work. According to the Ministry of Education, during the year 14 percent of primary school aged children (ages 7–11) and approximately 32 percent of sixth to eighth grade aged children (ages 12–14) in urban areas did not attend classes. Meanwhile, primary school attendance in rural areas was oversubscribed by almost 14 percent, because older children attended classes below grade level. Only 7 percent of children in rural areas attended school in grades 6 to 8.

Infant malnutrition continued to be a problem. A 2000 census showed that 19 percent of children suffered from chronic malnutrition. The Ministry of Health listed malnutrition as 1 of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients, and to encourage breast feeding, but all of these remained problem areas, especially among the rural poor.

The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights. However, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The ISNA, an autonomous entity, has responsibility for protecting and promoting children's rights. The ISNA reported that 1,493 children, some abandoned and others victims of mistreatment, were staying in its shelters at the end of the year. It reported 842 cases of physical mistreatment, 454 cases of negligence, and 446 cases of abandonment, compared to 913 cases of physical mistreatment, 366 cases of negligence, and 573 cases of abandonment reported in 2001. Using different criteria, the ISDEMU recorded 1,694 cases of abuse during the year, compared to 1,196 in 2001.

The ISNA reported 173 cases of sexual abuse during the year, compared to 115 in 2001. A majority of the victims were female.

Substance abuse (glue, paint thinner, and crack cocaine) was a problem among urban street children. FUNDASALVA, an NGO, provided drug counseling and treatment to minors. Another NGO, the Olaf Palme Foundation, reported that it registered 40 cases of police abuse and mistreatment of street children through the beginning of December. Of those cases, 23 were reported to the PDDH and 5 to the Attorney General's office. In the other cases, the NGO reported that the children feared reprisals if they reported the abuse. As an example of the mistreatment, the NGO reported that on October 30, a group of police accused three youths between the ages of 13 and 16 of being thieves when they came out of a church in downtown San Salvador. The police handcuffed one youngster, hit another, and put glue in the hair of a third. Later they made one of the youths clean their patrol car.

The PNC incorporated PDDH human rights training into programs for police units that deal with juveniles.

Child prostitution is a problem. Between 10 and 25 percent of visible prostitutes are minors, and an estimated 40 percent of the hidden prostitutes who cater to

upper-class clients are believed to be minors, according to a UNICEF study released in 2000. ISNA assisted 15 children who were involved in prostitution, compared with 24 in 2001.

Children, especially those living on the streets, were trafficked to other countries and then forced into prostitution (*see* Section 6.f.).

Child labor is a problem (*see* Section 6.d.).

Persons with Disabilities.—The National Secretariat of the Family estimated in 2000 that at least 8 percent of the population had some form of disability. A 2000/2001 study by the World Health Organization in conjunction with local and international partners found that the majority of persons with disabilities were young, lived in rural areas, and had little access to rehabilitation services. It found that many of the causes of disability were preventable.

A significant number of the country's population of persons with disabilities consists of former combatants and civilians wounded during the conflict. Government and international funding provide rehabilitation programs for these persons. During the year, the Government accepted new registrations of persons wounded and disabled as a result of the armed conflict (1980–92). Legislation passed in December 2001 mandated this response to long-standing complaints that thousands of war wounded had been unable to register during the initial registration period. The re-registration opened the way for thousands of additional persons with disabilities to receive government benefits.

Efforts to combat discrimination and increase opportunities for those whose disabilities are unrelated to the war are growing but remain inadequate. During the year, the Ministry of Labor promoted voluntary compliance with a 2000 law that requires businesses to employ 1 person with a disability for every 25 employees, an increase from the pre-existing requirement of 1 to 50. The Ministry's resources are limited, and its records are kept on paper files in its regional branches. There are no reliable data on the number of persons with disabilities who are employed; however, the unemployment rate is significantly higher than that in the general population.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Only a few of the Government's community-based health promoters have been trained to treat persons with disabilities, and they rarely provided such service.

There were several organizations dedicated to protecting and promoting the rights of persons with disabilities, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of persons with disabilities. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled, has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses. The Government and national and international private and nongovernmental organizations provide its funding.

Indigenous Persons.—The country is ethnically homogeneous, and only a few hundred citizens identify as indigenous people.

The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights.

Early in the 20th century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they now are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree; they do so without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem.

Indigenous people reportedly earn less than other agricultural laborers. Indigenous women in particular have little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land is a problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the rights of workers and employers to form unions or associations, and workers and employers exercised these rights in practice; however, there were some problems. There were repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. In June 2001, the CFA reiterated its 1999 finding that the existing labor code restricts freedom of association.

There is a small organized labor sector with approximately 133 unions, 16 federations, and three confederations representing 142,500 workers in the private sector. In addition, there are 24 public employee associations and 26 peasant organizations that, together, have an estimated membership of 150,000 persons. Unions generally are independent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

In August the Ministry of Governance refused to grant legal status to the Independent Monitoring Group of El Salvador, an NGO that monitors respect for labor rights in assembly factories (*see* Section 2.b.).

Union leaders asserted that the Government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers.

In July the Ministry of Labor (MOL) granted legal status to the Federation of Unions of Salvadoran Workers of the Food, Beverage, Restaurant, Hotel, and Agro-industrial Sectors. This federation included five food industry unions whose application to form a federation had been denied in 2000 because they allegedly had made procedural errors in their application. The ILO had called on the Government to reverse the 2000 decision.

By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if the agencies do not provide essential services. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. Some of the most powerful labor groups are public employee associations. They have the same responsibilities as unions, including collective bargaining. The Government negotiated with public employee associations, although the Labor Code provides for mandatory arbitration of public sector disputes. The Government did not amend national legislation to recognize the right of association of workers employed in the service of the State, as recommended by the CFA in 2000.

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application.

Unions only may strike after the expiration of a collective bargaining agreement. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, the strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The union must name a strike committee to serve as a negotiator and send the list of names to the MOL, which notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

Public workers may not strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

On September 5, workers of the Salvadoran Social Security Institute (ISSS) conducted a slow-down at several hospitals and clinics. They then initiated a strike on September 18, which continued through the end of the year, to pressure the Government to stop purchasing health care-related services from private companies. An autonomous government institution funded by payroll taxes and mandatory employer contributions, ISSS provides health care to people employed in the formal sector. In October a judge declared the strike illegal. In November the Legislative Assembly passed and then, in December, repealed a law that prohibited any contracting of social security-related services. At year's end, negotiations continued over the reinstatement of workers dismissed during and prior to the strike and the payment of wages withheld from workers while they were on strike. ISSS management maintained it had fired the workers for threatening other employees or committing theft and fraud, while union leaders insisted ISSS had dismissed them for "opposing privatization." The Government said it could not pay people for time they had not worked, and it offered to give them overtime hours to make up their lost wages and catch up on the institution's backlog of work.

From September through the end of the year, dozens of strike leaders and their family members received phone calls threatening that harm would come to them if they did not cease their activities. When an NGO reported the threats to the Director of the PNC, he passed the information to the Attorney General's office, which began interviewing victims and attempting to trace the calls. Separately, doctors who wanted to work during the strike reported that they received phone calls threatening their own and their families' security if they worked.

The Secretary General of the social security workers' union (STISSS) Ricardo Monge reported that five people broke into his home on November 15 at 1 a.m. and threatened him and his wife during the half-hour they stayed. Allegedly they said they would kill him if he continued with the strike. Monge said they took union and personal papers but nothing else of value. He said he reported this to the police, the Attorney General's office, and the Human Rights Ombudsman.

In 2001 ISSS workers engaged in several work stoppages ranging from 2 to 24 hours. In October 2001, the ISSS dismissed 6 employees and suspended 22 others over an illegal work stoppage in May 2001. The Labor Ministry had authorized the suspension of the 22 workers for up to 30 days because, according to the Ministry, they had committed serious acts that interfered with the functioning of their workplaces. The union charged that the punitive measures were illegal because the law prohibits the dismissal or suspension of union leaders and filed a complaint with a labor court. The court had not issued a decision by year's end.

The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The MOL oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the MOL only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Labor leaders assert that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.)

Corruption among labor inspectors and in the labor courts continued to be a problem. In June 2001, the Labor Ministry removed from their positions five inspectors, including a senior inspector, who had been accepting bribes from companies.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. However, the Labor Code does not require the employers to reinstate them, but requires the employers to provide a severance payment. In practice, some employers dismissed workers who sought to form unions. The Government generally ensured that employers paid severance to these workers. However, in most cases the Government did not prevent their dismissal or require their reinstatement. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the maintenance of lists of workers who would not be hired because they had belonged to unions.

On May 6, SELSA, the labor union at the bakery products company, LIDO, conducted an on-the-job work stoppage to protest the lack of progress during 3 months of salary negotiations. In the following week, management prohibited the entry to the workplace of 41 union members, including 11 union leaders, but continued to pay their salaries. Both sides appealed to the labor courts. Management charged the 41 union members were conducting an illegal strike by failing to perform their duties. The employees accused management of applying a lockout. The courts rejected both assertions. The employees requested an inspection by the MOL to define the status of the affected workers. SELSA charged that the company continued to pressure other union members by reprimanding them regularly for disturbing order in the company. The Labor Ministry reported that it conducted the requested inspec-

tions, but the inspectors took no further action because another office of the Ministry was mediating between the parties. According to the Labor Ministry, in July the parties agreed that the company would pay the workers the salaries owed to them since May 7 as well as other wages and benefits due to them. The Ministry said that, on July 5, the union leaders received their first payments, and the 30 other workers submitted resignations and received payment in full. A labor NGO reported that a Labor Ministry official refused to release the settlement payments to the workers unless they signed letters of resignation and told them their alternative was to engage in a lengthy effort in the courts to obtain compensation. Six of the workers who signed the resignation and received payment filed a suit maintaining that the company had fired them illegally and their resignations had been coerced. The legal proceedings were underway at year's end.

Tainan, a major foreign-owned textile assembly factory, closed permanently in April, after initially announcing that it would suspend operations temporarily. The closure took place just as the union was reaching the affiliation level required for collective bargaining. While the company attributed the closure first to a lack of orders and then to business losses, labor advocates charged the multinational took this action to avoid having to deal with a union in its workplace. Following the initial suspension of operations, the union submitted a formal complaint to the MOL alleging the company had orders but chose to direct them to plants in other countries. The MOL responded that the Labor Code authorized enterprises to suspend labor contracts for lack of raw materials, and the law gave the MOL no discretionary authority in these cases. The union and its supporters in other countries conducted an international publicity campaign to bring pressure on Tainan and its buyers. In November Tainan and the union signed an agreement in which the company committed to open a unionized plant and to establish a compensation fund for workers affected by the closure.

Between September 2001 and November, the electricity generation company CEL dismissed 31 members of the Union of Electrical Sector Workers (STSEL), 6 of whom were union leaders legally protected from firing. The unionists charged the action aimed to destroy their organization. They alleged CEL reinstated two dismissed workers after they joined a rival union supported by CEL. To protest the firings, three members held a hunger strike for 23 days in October and November, and union members went on strike in a transmission plant for 2 weeks in November. STSEL filed complaints with the MOL, the PDDH, and the labor courts. CEL maintained it had fired some unionists—along with non-union members—for cause, and other union members had resigned. It offered severance pay to all of the employees in question, and 16 had accepted at year's end. The rival union denied it received preferential treatment from CEL. The Ministry of Labor held a mediation session in November, which achieved no further results. In December CEL dismissed 18 more union members. According to the union, 10 of those fired were union leaders, and one had a disability that entitled him to protection from dismissal. At year's end, none had received severance pay.

On December 21, 2001, the National Institute for Public Employees' Pensions (INPEP) dismissed 92 workers, of whom 56 were members of the Union of Workers of the National Institute for Public Employees' Pensions (SITINPEP), which complained to the ILO. The Government informed the ILO that the reduction in staff was necessary after 80 percent of pension contributors transferred their savings to a new pension system. The CFA expressed regret that the Government did not try to reach an agreement with the union before dismissing the employees, as required by the collective bargaining agreement. It asked the Government to ensure that there was an investigation to determine the reasons for the high proportion of unionists in the group of persons dismissed, and that, if the investigation found any of the dismissals were due to union membership or union activities, the Government take the necessary measures to ensure the affected workers' reinstatement. In preparing its response, the Ministry of Labor asserted that INPEP had repeatedly informed the union and all INPEP employees that its financial situation would require a reduction in staff. The Ministry of Labor underscored that INPEP had eliminated positions based on their function, regardless of who filled them, and that it had paid severance to the affected employees. During the year, the union charged that management pressured union members to renounce their affiliation. These resignations, the dismissals, and voluntary retirements from the institution reduced SITINPEP's membership below the threshold required to negotiate a collective bargaining agreement.

In February the semiautonomous port authority (CEPA) and the airport union, SITEAIES, signed an agreement resolving their dispute over the September 2001 suspension without pay of approximately 150 security and cargo personnel at the San Salvador international airport. The Government replaced these workers with

police and soldiers as part of its efforts to strengthen border security following terrorist attacks in the United States. The airport union charged that CEPA targeted union members for suspension to break the union and privatize some of CEPA's functions. Prior to the February agreement, all but 64 of the airport workers had accepted a voluntary retirement package offered by CEPA. In accordance with the settlement, the company paid severance to the 64 remaining suspended workers; the affected workers formed a cooperative; and, in April, the cooperative began providing cargo services at the airport. In June the ILO called for the Government to carry out an investigation and determine the reasons for the "militarization" of the airport and the extent to which it interfered with union activities. During the year, the airport union repeatedly expressed concern to the MOL that CEPA management was pressuring other airport employees to renounce their union affiliation and was firing workers without notifying the union in advance, as required by the collective bargaining agreement. In addition, it criticized the Government for not having completed the formal registration of the June 2001 collective bargaining agreement between CEPA and SITEAIES.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 15 EPZs. The Labor Code applies in the EPZs; there are no special EPZ labor regulations.

Most businesses in the EPZs are subject to a growing number of private codes of conduct, which also include some worker rights protections. In addition, two EPZs have their own codes of conduct for all tenants. Some companies in the EPZs provided salaries and on-site benefits (for example, clinics, cafeterias) competitive with the best private sector enterprises (*see* Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 18 unions active in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its 2000 report that some EPZ workers also received low pay, endured health and safety risks, 12- to 14-hour workdays, and had minimal toilet and rest breaks. The Government contends that the workers often prefer not to use safety equipment, and they have time for toilet and rest breaks.

The Ministry of Labor reported that it received nine complaints of minimum-wage violations during the year, of which seven had been resolved in favor of the workers. In the two remaining cases, the Ministry had initiated the process of imposing a fine (*see* Section 6.e.).

In May 2001, a foreign NGO, the National Labor Committee (NLC), made public the text of an August 2000 report on the maquila sector by the Labor Ministry that described what it called the systematic violation of workers' efforts to form unions as well as safety problems and mandatory overtime policies (*see* Section 6.e.). The report also identified weaknesses in the Ministry of Labor that undermined employers' and workers' confidence in the institution. After the initial publication of the report, the maquila association criticized it as unsubstantiated and inaccurate. Labor NGOs, unions, and workers affirmed that it described accurately conditions in the sector. In August 2000, the Minister of Labor retracted the report, saying that it had been published without his approval and did not adequately document its assertions. President Flores stated publicly that the report showed the Ministry of Labor was working to monitor conditions in the maquilas.

During the year, there was no progress in the 2001 labor court case of a pregnant woman fired by the apparel factory Amitex, allegedly for participating in the formation of a union.

Since 2000 the MOL has had branch offices in EPZs to make its services more accessible to its users. The Ministry provides the staff, and the EPZs covered other costs.

Workers in a number of plants reported verbal abuse, sexual harassment and, in several cases, being hit by a supervisor. The MOL has insufficient resources to cover all the EPZs, much less the much larger national private sector. In addition, corruption among labor inspectors continued to be a problem (*see* Section 6.a.).

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there have been no instances in which this has been used or even threatened publicly. The ICFTU has reported persistent problems facing female employees in EPZs, including mandatory pregnancy tests and firing of workers who are pregnant (*see* Section 5).

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or compulsory labor, except in the case of natural catastrophe and other instances specified by law, and the Government generally enforces this provision; however, trafficking in persons, primarily women and children, is a problem (*see* Section 5).

Although not specifically prohibited by law, forced and bonded labor by children is covered by the general prohibition. There were no reports that such practices oc-

curred in the formal sector; however, there were reports that minors were forced into prostitution, and trafficking in children is a problem (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14; however, child labor is a problem. According to the annual household census conducted by the Directorate General of Statistics and Censuses in 2001, more than 75,000 children between the ages of 5 and 13 worked, as did almost 147,000 minors between the ages of 14 and 17. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous (see Section 6.e.). The law limits the workday to 6 hours (plus a maximum of 2 hours of overtime) for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. The constitutional provisions apply to all sectors of the economy. However, there is a large informal sector where it is difficult to monitor practices or enforce labor laws. Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector. Children in these circumstances often do not complete schooling. There were no reports of child labor in the industrial sector. It does not exist in the EPZs.

The MOL is responsible for enforcing child labor laws; in practice, labor inspectors focused almost exclusively on the formal sector, where child labor is rare, and few labor inspectors have dealt with child labor cases. The MOL has a mandate to monitor employers' observance of labor laws; however, there are no employers as such in most of the sectors identified as worst forms of child labor by a national committee. In 2001 the committee, composed of seven government agencies and representatives of labor, employers, and NGOs, identified commercial sexual exploitation, work in garbage dumps, fishing/shellfish harvesting, sugarcane farming, and fireworks as the worst forms of child labor. The MOL receives few complaints of violations of child labor laws, because many citizens perceive child labor as an essential component of family income rather than a human rights violation.

The Labor Code does not prohibit specifically forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Section 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The minimum wage is set by executive decree based on recommendations from a tripartite (government, labor, and business) committee. The minimum daily wage is \$4.80 (42 colones) for commercial, industrial, construction, and service employees; \$2.47 (22 colones) for agricultural workers; and \$3.57 (31 colones) for seasonal agriculture industry workers. The minimum wage with benefits does not provide a decent standard of living for a worker and family.

The MOL is responsible for enforcing minimum wage laws and generally does so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime, and did not pay legally mandated contributions to health and pension programs. On January 1, Laitex, a foreign-owned maquila, ceased operations without paying its workers their salaries for the last 2 weeks of December, mandatory annual bonus payments, or severance. In addition, although it had consistently deducted mandatory employee contributions for health and pension programs, it had not transferred either the employees' funds or the mandatory employer contributions to the respective institutions. Two hundred and seventy of Laitex's 459 employees filed a complaint with the MOL. The Government prohibited the transfer or sale of Laitex's physical assets until the debts were resolved. To recuperate its fabric, Dorby Frocks, a foreign partner of Laitex, paid the overdue salaries; however, at year's end, neither company had paid the other debts.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law a full-time minimum wage employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum; some were paid overtime but others were not.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and billiard halls; the prohibition also applies to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The

Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the 4th month of pregnancy. Health and safety regulations are outdated, and enforcement is inadequate. The MOL attempts to enforce the applicable regulations but has restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms, and eating facilities, and inadequate ventilation (problems with dust and heat). Some of the largest plants have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

In July hundreds of workers showing classic signs of airborne contamination by a toxic substance were evacuated from several maquilas in a free trade zone. The workers were transported to hospitals, and almost all of those admitted were discharged within 24 hours. The company where the contamination appeared to originate closed its plant and did not allow anyone - including Ministry of Labor and Environment inspectors - to enter for more than 48 hours. Initial medical examinations and tests within the plants revealed no evidence of contamination. The Institute of Forensic Medicine identified a chemical used in the production of tear gas. Following further investigation, an interagency government report stated that none of the products authorized for use in the maquilas' activities produced the contaminant. It determined that a chemical agent unrelated to the industrial process must have caused the contamination and, therefore, the companies' monitoring systems could not have prevented the incident. At year's end, the Attorney General's office had not determined how the chemical had entered the facilities.

f. Trafficking in Persons.—In October 2001, the Legislative Assembly approved criminal code reforms that prohibited trafficking in persons. Prior to the reforms the Criminal Code stipulated that any crime involving commerce in women or children automatically carried a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime; however, trafficking in persons is a problem.

Women and children are trafficked for prostitution to Mexico, Guatemala, and other Central American countries. In the past, there were credible reports that women and children were lured to Mexico by procurers only to be sold to owners of establishments there who then force the trafficked persons to work off the debt as prostitutes. On at least two occasions during the year, the *Prensa Grafica* newspaper reported the rescue of about a dozen Salvadoran women and girls from brothels in Mexico, where traffickers had obligated them to work. In 2001 Guatemalan authorities reported that street children from El Salvador were lured to border areas with Guatemala where they are then forced into prostitution by organized rings. In July police in Guatemala City raided a brothel and rescued nine children who had been lured from El Salvador by offers of legitimate employment, but then were forced into prostitution by the brothel's owner. Trafficking of female teenagers, from 14 to 19 years-of-age, for sexual exploitation also occurs within the country to the ports of Acajutla and La Libertad. The majority of trafficked victims transiting El Salvador are from Nicaragua, Honduras, and South America. According to police reports, Nicaraguan minors are trafficked to bars in the cities of San Miguel and El Sauce where they work as prostitutes. The most common methods used to approach the victims are kidnaping, lucrative job offers, and inducement into prostitution by friends.

The Unit for the Protection of Women and Children in the Attorney General's office investigates cases of abuse against women and children, including trafficking. The PNC, ISNA, and the Directorate of Immigration also are involved in combating trafficking in persons. However, the investigative units are new and poorly funded, and the Government has not prosecuted traffickers.

The Government deports non-Salvadoran victims of trafficking; however, victims can obtain temporary residency or refugee status if they are likely to face political persecution in the country of origin. Access to legal, medical, and psychological services is provided to the victims. Victims of trafficking are not treated as criminals. The Government does not provide assistance to its repatriated citizens who are victims of trafficking, nor does it support the NGOs that assist them.

GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. In the 1999 parliamentary elections, Prime Minister Keith Mitchell's New National Party (NNP) won all 15 seats and formed a new government. Subsequently, one Member of Parliament left the NNP and became the sole opposition member. The elections were conducted openly and fairly and were free of violence. The Constitution provides for an independent judiciary.

The 800-member Royal Grenada Police Force was responsible for maintaining law and order. It was controlled by and responsive to civilian authorities. There were occasional allegations of abuse by the police.

The free-market economy was based on agriculture and tourism. Grenada and 2 smaller islands, Carriacou and Petit Martinique, had a population of approximately 103,000. The projected annual real economic growth rate was 0.6 percent, compared with an estimated -3.4 percent in 2001.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were allegations of police brutality. Violence against women was common, and more women reported incidents of abuse and sought help from various support systems. Child abuse remained a significant problem, and in October 2001 the Social Services Ministry established a special hot line to handle complaints of abuse. Grenada was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reported incidents of torture. Flogging, a legal form of punishment, was rare but has been used as punishment for sex crimes and theft cases.

There were several reports of alleged police brutality. In mid-August the Nutmeg Association farmers led a march in the streets of St. George's to protest the Government's decision to support a private company, which offered farmers a higher price for their nutmeg than that which traditionally was offered by the Nutmeg Association. A police officer allegedly manhandled a woman during the demonstration. The Police Commissioner publicly requested anyone who had been treated brutally to report the incident to the Criminal Investigation Department, but no one came forward. As a result, the matter was dropped.

The media reported a second case in which three college students threatened legal action against members of the Royal Grenada Police Force for alleged police brutality. The police allegedly accused the boys of being members of the "Ginger Crew Gang," a group of teenage boys who were involved in the forced entry and disturbance of social functions, where they fought with the patrons. The three students asserted that they became victims of severe police brutality and retained a lawyer to press their case.

Allegations of police brutality were investigated internally by the police. The Police Commissioner could discipline officers in valid cases of brutality with penalties that may include dismissal from the force. The Police Commissioner continued to speak out strongly against police use of unlawful force.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The law provides the police with the right to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours. The police generally adhered to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There was a functioning system of bail, although persons charged with capital offenses were not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

The Constitution does not address exile, but the Government did not use it.

e. Denial of Fair Public Trial.—The judiciary, a part of the Eastern Caribbean legal system, was generally independent. Final appeal may be made to the Privy Council in the United Kingdom. Those arrested on criminal charges are brought before a judge to determine whether there is sufficient evidence to substantiate the charges; if there is, the judge remands the defendant for trial.

The law provides for the right to a fair public trial, and the authorities generally observed this right in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the

advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appointed attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reached the appellate stage, the court appointed a lawyer to represent the accused if the defendant was not represented previously or reappointed earlier counsel if the appellant no longer could afford that lawyer's services. Due to the backlog of cases caused by a shortage of judges and facilities, those charged with serious offenses must wait from 6 months to 1 year before coming to trial in the High Court. With the exception of persons charged with murder and foreign-born drug suspects, the courts granted most defendants bail while awaiting trial.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the authorities generally respected these prohibitions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The law contains other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtained warrants in the majority of cases before conducting any search.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. There were three weekly newspapers, and several other newspapers published irregularly. One of the weeklies was affiliated with an opposition political party, but the three most widely circulated newspapers were independent and often critical of the Government. The newspapers routinely carried press releases by the opposition parties, including regular weekly columns expressing the opposition parties' views.

There were 10 radio stations. The main station was part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government held a minority share. The principal television station was also part of the GBN, and there was a privately owned television station. A cable television company operated in most areas of the country. All newspapers, radio, and television stations enjoyed independence from the State and regularly reported opposition views. The television news often carried reports on opposition activities, including coverage of political rallies held by various political parties and candidates, public forums featuring political leaders of each of the major parties, and other public service broadcasts.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble for any peaceful purpose and for the right of association, and the Government generally respected these rights in practice. Supporters of political parties met frequently and held public rallies; the authorities require permits for the use of a public address system but not for public meetings themselves.

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

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and all citizens had the right to enter and leave the country, except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of the country by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal. The Chief Justice appoints an accredited lawyer to preside over such a tribunal.

No formal government policy toward refugee or asylum requests existed. The issue of provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. General elections must be held every 5 years; in January 1999, Prime Minister Keith C. Mitchell's NNP was returned to office, securing all 15 seats in Parliament. In 2000 a Member of Parliament changed party affiliation to become the single elected opposition member, leaving the NNP with a majority of 14 seats.

There were no legal or other impediments to the participation by women in government or politics. Four of the 15 elected Members of Parliament were women; there was 1 woman among the 13 appointed Senators. Women filled 10 of the 15 permanent secretary posts, the highest civil service position in each ministry.

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

Local human rights groups generally operated without government restriction, and the Government cooperated with visits from international human rights organizations.

In September 2001, the Government inaugurated a Truth and Reconciliation Commission to investigate the period between the mid-1970s and the late 1980s. The commission's terms of reference specify the objective of recommending "general amnesty to certain persons who in the opinion of the commission have given truthful information during the hearing of evidence." The commission was expected to review the convictions of former Deputy Prime Minister Bernard Coard and other leaders of the former People's Revolutionary government for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues. In 1986 a court convicted Coard and 18 other revolutionary leaders of murder and sentenced them to death; subsequently, 2 were pardoned, and the sentences of the remaining 17 were commuted to life in prison. Of these, one person was granted parole to undergo medical treatment overseas.

The 16 prisoners retained a lawyer from Trinidad who filed a constitutional motion on their behalf. In February a high court judge ruled that three should be released; the Government appealed, and in November the Eastern Caribbean Court of Appeal overturned the High Court's decision. The Truth and Reconciliation Commission held many meetings but had not presented its final report to the Government by year's end.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, place of origin, political opinion, color, creed, or sex, and the Government generally adhered to these provisions.

Women.—Women's rights monitors believed that violence against women remained a serious problem, and there was a notable increase in reports of incidents of violence during the year. Some observers believed that there was a new willingness by women to report abuse and seek assistance after Parliament enacted a bill aimed at combating domestic violence in May 2001. It provides for penalties including jail sentences, fines, and community service and also includes provisions for issuance of restraining orders. The police stated that most cases of abuse were not reported, and others were settled out of court. The law stipulates a sentence of 15 years' imprisonment for a conviction of any nonconsensual form of sex. Sentences for assault against a spouse varied according to the severity of the incident. There was a shelter for battered and abused women and their children in the northern part of the island, with medical and psychological counseling personnel on its staff. The home accommodates 20 persons.

Prostitution is illegal.

Sexual harassment in the workplace was a problem.

There was no evidence of official discrimination in health care, employment, or education. Women frequently earned less than men performing the same work; such wage differences were less marked for the more highly paid jobs.

Children.—The Social Welfare Division within the Ministry of Housing, Social Services, and Cooperatives provided probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or provide foster care to children, and financial assistance to the six children's homes run by private organizations.

Education is compulsory until the age of 16.

Government social service agencies reported a further increase in the number of child abuse cases, including sexual abuse. Abused children were placed either in a

government-run home or in private foster homes. The law provides for harsh penalties against those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest. There were three convictions for such offenses during the year, with abusers sentenced to a maximum of 15 years in prison. In January Parliament passed a Child Protection Act. In October the Social Services Ministry established a child abuse hot line; it received an average of six calls per day. Women's organizations and other nongovernmental groups increased their public awareness efforts to recognize and combat sexual abuse of women and children.

Persons with Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility to public buildings or services. The National Council for the Disabled and the National Children's Home assisted the Government in placing students with disabilities into community schools. The Council also sought assistance from architects and builders in the construction of ramps at hotels and public buildings, and ramps were installed at some hotels and government buildings.

Section 6. Worker Rights

a. The Right of Association.—All workers were free to organize independent labor unions. Although employers were not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 25 percent of the work force was unionized, a decline reflecting loss of jobs during the year. Union leaders played a significant role in the political process, and one labor leader served in the Senate on behalf of the Grenada Trades Union Council (GTUC).

The law prohibits discrimination by employers against union members and organizers. Mechanisms exist to resolve complaints of discrimination. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers who are found guilty of antiunion discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of antiunion discrimination reported to the Ministry during the year.

All unions were technically free of government control, and none received government financial support. However, all of the major unions belong to one umbrella labor federation, the GTUC, which was subsidized by the Government. The GTUC held annual conventions and determined some policies for member unions.

The GTUC and its unions freely affiliated with regional and international trade union groups.

b. The Right to Organize and Bargain Collectively.—Workers were free to organize and to participate in collective bargaining. The law requires employers to recognize a union that represents the majority of workers in a particular business.

Workers in the private and public sectors were free to strike, once legal and procedural requirements were met. There were several strikes or other types of industrial action during the year, including those by workers at the Nutmeg Association, the Grenada Sugar Factory, and the airport. All were short-lived and were settled with the intervention of the Labor Commissioner, the Minister of Labor, and the respective unions.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution specifically prohibits forced or bonded labor, including by children, and it was not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor is illegal; however, children sometimes worked in the agricultural sector. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforced this provision in the formal sector by periodic checks; however, enforcement efforts in the informal sector were lax. The Government has endorsed but not yet ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor.

e. Acceptable Conditions of Work.—For the first time, the Government established a tripartite Wages Advisory Committee, composed of union, business, and government representatives. The Labor Ministry prescribed minimum wages, which took effect in September. Minimum wages were set for various categories of workers; for example, agricultural workers were classified into male and female workers. Rates for men were \$1.85 (EC\$5.00) per hour, and for women \$1.75 (EC\$4.75) per hour; however, if a female worker performed the same task as a man, her rate of pay was the same. All agricultural workers must be paid for a minimum of 5 hours per day.

The minimum wage for domestic workers was set at \$148.14 (EC\$400) monthly. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. Most workers, including nonunionized workers, received packages of benefits from employers set by collective bargaining agreements between employers and labor unions. Many families received remittances from relatives abroad and also helped support themselves through garden-plot agriculture.

The Constitution stipulates that the maximum number of hours per week workers may work is 40. The law does not prescribe a standard workweek, except for the public sector, which is expected to work a 40-hour week Monday through Friday. The normal workweek in the commercial sector included Saturday morning work but did not exceed 40 hours.

The Government sets health and safety standards, but the authorities enforced them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons.—There were no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The 1985 Constitution provides for universal suffrage to elect a one-term president and a unicameral congress. President Alfonso Portillo of the Guatemalan Republican Front (FRG) took office in January 2000 following a generally free and fair December 1999 runoff election. The FRG maintains a majority (63 seats) in the 113-member Congress. Despite significant pledges, the Portillo administration and Congress took only limited steps to implement the Peace Accords concluded with the Guatemalan National Revolutionary Unity (URNG) guerrillas in 1996. The judiciary is independent; however, it suffers from inefficiency, corruption, and intimidation.

The Minister of Interior oversees the National Civilian Police (PNC), created in 1997 under the terms of the Peace Accords. The PNC has sole responsibility for internal security. There are no active members of the military in the police command structure. In February the President ordered the dismissal of several military officers from positions in the Ministry of Interior. However, the Government frequently ordered the army to support the police, who are ill-equipped and lack resources. The United Nations Verification Mission in Guatemala (MINUGUA) reported that this practice constituted a grave setback for the demilitarization of public security, as called for by the Accords, and that there were no indications that joint operations reduced crime levels. Under existing law, military personnel were subordinated to police control during joint patrols or operations. The Constitution requires the Minister of Defense to be an active duty military officer. On December 29, the President announced a reduction of 162 persons from the Presidential Military Staff (EMP) and committed to further reductions and eventual dissolution of the EMP in 2003, in long-overdue compliance with the Peace Accords. Nevertheless, the Government has steadily increased the EMP's budget, while devoting a lesser amount of resources to its successor organization, the Secretariat for Strategic and Administrative Affairs (SAAS). Although troop readiness levels are low, the overall military budget again surpassed what the Peace Accords call for, leading civil society groups to allege corruption and call for transparency in budget and spending. Some members of the security forces committed human rights abuses. A number of retired military officers with widely acknowledged ties to violent, organized crime continued to have significant influence within the army, police, judiciary, and executive branch.

The private sector-dominated economy grew by approximately 2 percent during the year. The country has a population of approximately 13 million. Coffee, sugar, and bananas are the leading traditional exports, but tourism, apparel assembly, and other nontraditional industries all contribute more than coffee. Significant declines in world prices for coffee adversely affected the economy. Almost 40 percent of the work force and 60 percent of the poor are engaged in some form of agriculture, according to census data. Inflation was 6.3 percent during the year, but the national currency held its value against the dollar. Land distribution is highly skewed. One percent of farms contain more than one-third of all land being cultivated. There is a marked disparity in income distribution and poverty is pervasive, particularly in the large indigenous community. Approximately 83 percent of the population lives in poverty; this figure rises to 90 percent among indigenous people. According to the

U.N. Development Program (UNDP), 59 percent of the population lives in extreme poverty. Combined unemployment and underemployment were estimated at 46 percent. Foreign aid is an important part of national income. Remittances from citizens living abroad were the leading source of foreign currency and are growing.

The Government generally respected the human rights of its citizens; however, serious problems remain, and the human rights situation deteriorated in some areas. There were several reports of extrajudicial killings by security forces. There were increased reports of violent deaths, killings, and "social cleansing" in which persons deemed socially undesirable (e.g., gang members, local delinquents, street children, prostitutes, and homosexuals) were murdered. Lynchings and mob violence occurred at a higher rate than in 2001, although the numbers of deaths decreased due to improved police intervention. In some cases, security forces tortured, abused, and mistreated suspects and detainees. Prison conditions remained harsh. In many cases, the prosecutorial and judicial systems were unable to ensure full and timely investigations, fair trials, or due process. Arbitrary arrest and lengthy pretrial detentions continued to be problems. Judges and other law enforcement officials were subject to intimidation and corruption. In May the U.N. Special Rapporteur for Human Rights Defenders noted a significant deterioration in the security of human rights workers. Increased threats against judicial personnel, journalists, witnesses, labor organizers, church activists, and labor unionists heightened public insecurity. The obstruction of justice, threats, and intimidation also were traced to "parallel forces" or "clandestine groups" related to the Government. MINUGUA found that the majority of human rights violations were the result of the failure of the state to investigate and punish those who broke the law. MINUGUA estimated that 15 percent of the violations derived from the obstruction of justice, particularly by police officers whose only punishment was to be rotated out from assignments where there were problems. Efforts to reform the judiciary continued; however, impunity was systemic.

Most human rights cases remained pending for lengthy periods without being investigated or languished in the courts as defense attorneys took advantage of the inefficient judicial system and filed numerous motions and appeals to delay trials. On October 8, appeals judges annulled the 2001 conviction in the Bishop Gerardi murder case and ordered a retrial. The prosecution has appealed the judges' decision. On September 3, the trial of the alleged intellectual authors of the 1990 murder of anthropologist Myrna Mack began after a 12-year delay. On October 3, the court found former colonel Juan Valencia Osorio guilty of ordering her murder and sentenced him to 30 years imprisonment. The Government made some progress in fulfilling settlements negotiated by the Inter-American Commission on Human Rights (IACHR), such as in the case of murdered journalist Irma Flaquer, but negotiated no new settlements during the year.

Violence and discrimination against women persisted, as did societal abuse of children and discrimination against the disabled and indigenous people. Workers' efforts to form unions and participate in union activities were hindered by ineffective government protection. Child labor and trafficking in women and children were continuing problems. Guatemala was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

Attacks on human rights workers increased during the year. While some of these attacks may have been instances of common crime, the numbers and patterns of the attacks point to a deliberate, systematic effort to intimidate human rights workers. In March, members of a coalition of human rights groups demanded that the Government take measures to ensure the security of human rights workers, investigate and prosecute the material and intellectual authors of the attacks, investigate the existence of clandestine groups and parallel forces linked to state institutions believed to be behind the attacks, and dismantle them. The Secretariat of Strategic Analysis produced a report on the existence of such groups, although other public officials refuted its findings. Human rights groups broke off dialogue, asserting that the Government failed to respond adequately to their concerns and did not accept the President's offer to meet with them. Some government officials made public comments disparaging human rights workers and international observers, and asserted that some of them had fabricated alleged abuses.

In July members of the former Civil Defense Patrols (PAC) demanded payment for services rendered to the army during the armed conflict. The Government's initial agreement to provide indemnification prompted protest from civil society groups and international human rights observers. Opponents argued that compensating groups, many of which had committed documented human rights abuses during the conflict, was an insult to the victims for whom a National Reparations Plan has not been developed.

MINUGUA continued to monitor peace accord implementation and human rights issues. The Government asked the U.N. to extend MINUGUA's mandate. MINUGUA reported that the overall human rights situation deteriorated, and there were increased signs of the participation of clandestine groups in illegal activities linked to employees of the police, military intelligence, justice system, and Public Ministry. These groups appeared to act with relative autonomy, and there was no evidence that they were a part of government policy; however, they operated with impunity. MINUGUA found evidence of civilian and military officers linked to these groups operating both officially and unofficially within the executive and judicial branches.

In March Amnesty International (AI) reported that successive governments had failed to implement the human rights elements of the 1996 Peace Accords. The report alleged that this failure had contributed to new death threats, attacks, and other acts of intimidation against the country's human rights community and others trying to combat impunity. The report claimed that the failure of the legal system to deliver justice has been a major contributory factor to this situation. In August Human Rights Watch (HRW) reported that similar threats and attacks against human rights defenders were carried out by a clandestine group with possible links to both public security forces and organized crime. In September AI reported the continued operation of Civil Defense Patrols despite the provision for their dissolution in the Peace Accords.

A new Human Rights Ombudsman, backed by civil society organizations, was elected in June. A new Attorney General was selected on May 9 and promised to combat impunity and promote respect for human rights. He appointed a special prosecutor for crimes against human rights workers and agreed to appoint a special prosecutor for crimes against the indigenous.

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 allegations of politically motivated killings by government agents, and security forces allegedly committed some extrajudicial killings. The Government demonstrated some willingness to arrest and prosecute those responsible; however, in many cases the scarcity of law enforcement resources and a weak prosecutorial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators (*see* Sections 1.c. and 1.e.).

MINUGUA reported that it had received 89 allegations of extrajudicial killings between July 2001 and June and had confirmed the validity of the claims in 13 cases and 25 attempted killings. In the previous reporting cycle, July 2000 to June 2001, MINUGUA corroborated 26 killings out of 43 allegations. The report noted a number of extrajudicial killings by members of the police. Many of these cases involved accidental discharges of weapons, drunken misbehavior by on- or off-duty officers, questionable crowd control techniques, or poor judgment by officers who lost control of unstable situations involving angry crowds or persons resisting arrest. In some of these cases, there was effective investigation by both the police Office of Professional Responsibility (ORP) and the prosecutors. In others there was credible evidence of a cover-up by police officers, the ORP, or both, and frequently, inadequate investigations by the prosecutor's office. MINUGUA again noted an increase in the participation of municipal officials, particularly auxiliary mayors, in extrajudicial killings—primarily lynchings.

On January 29, some 20 agents of the now defunct Department of Anti-Narcotic Operations (DOAN) of the PNC entered the community of Chocon, Izabal, allegedly to conduct a drug raid. DOAN agents shot and killed Leonel Diaz Valenzuela and Abinail Cerna Castaneda as they ran from a storefront toward their homes. Other individuals were illegally detained, beaten, and tortured (*see* Section 1.c.). One individual, who was detained, disappeared (*see* Section 1.b.). DOAN officials remained in the community, occupying private homes and terrorizing the residents, for well over a day. The officers subsequently gave multiple versions of the events. On February 8, the ORP initiated an investigation and charged 17 agents with a cover-up, altering the scene of a crime, illegal detention, use of unnecessary force, and abuse of authority. Arrest warrants were issued for the 17; one suspect fled before he could be detained. On June 27, the Public Ministry asked the High Impact Court of Chiquimula to open oral proceedings against the 16 captured agents for extrajudicial killing, illegal entry, forced disappearance, altering a crime scene, and abuse of authority. On July 26, a judge ordered the trial to proceed.

In April the IACHR requested that the Government provide police protection to the members of the community after suspicious vehicles were seen in and around

Chocon and a witness, Marvin Estuardo de Leon, was murdered. In response, on April 12, the police established a substation in Chocon.

On February 28, a shootout between members of the Criminal Investigative Service (SIC) of the PNC and military intelligence personnel killed two members of the military, and wounded three police officers. Both the then-Minister of Interior and the Director of the PNC maintained that the incident resulted from a lack of communication during a rescue operation in a kidnapping case; however, there were credible reports that the participants in the incident were, in fact, members of a clandestine criminal group attempting to steal the ransom money. According to MINUGUA and press reports, there were indications that the criminals were members of the military. There was also credible information that the police killed one of the military personnel after he had been wounded and surrendered. The crime scene was altered, and evidence was removed. In May a SIC investigator's testimony that he was ordered to modify the official reports implicated the Director of the PNC, the Minister of Interior, and others in the command structure. Further obstruction of the investigation occurred when two military officers linked to the clandestine group were sent abroad.

There have been at least six murders of landless peasants occupying private land in Morales, Izabal municipality since April 2001. Agents associated with landowners are implicated in several of the murders, and three local police at the scene of one of the murders when the crime was committed were charged with "neglecting their duties." There have been few arrests and no convictions in any of these cases.

On April 4, police officers illegally detained Rudy Castillo and Erick Garcia in Sumpango, Sacatepequez. On April 8, the bodies of the two men were found with evidence of torture (*see* Section 1.c.). The ORP opened an investigation and on April 11, arrested officer Ronald Roca and charged him. Two other PNC suspects remained at large. The victims' families received multiple threats from unknown persons.

On April 27, William Ruano Mayen, the son of Pascual Ruano, a witness in the Bethel Route case in which some 18 individuals were the victims of extrajudicial killings by a group of former military and PAC members during the 1997-99 period, was killed. Evidence suggested links between the perpetrators of Mayen's death and the Bethel Route killings; however, police made no arrests in this case.

There was no progress in the investigation of the 2000 deaths of Oscar Guzman Garcia and Jose Castaneda Alvarez, who had been detained by men wearing military uniforms in a jeep marked "ZM12" (for Military Zone 12).

There were no known reports of deaths of detainees or prisoners while in police custody during the year, although most cases from previous years went unresolved, such as the 2000 death of Luis Armando Colindres while in police custody or those of the prisoners killed during jailbreaks and prison riots in 2001.

Most cases from past years remained unresolved, such as the killings of Constitutional Court president Epaminondas Gonzalez in 1994, former presidential candidate Jorge Carpio in 1993, and Gerardi witness Luis Garcia in 2001. There was some progress during the year in cases of past extrajudicial killings by members of the security forces. In many other cases, there was little or no progress, often due to the tactics of defense attorneys who frequently took advantage of a legal system that tolerates the filing of dilatory motions to derail impending trials against their military clients.

On September 3, the trial of Edgar Godoy Gaitan, Juan Valencia Osorio, and Juan Oliva Carrera, alleged intellectual authors of the 1990 murder of anthropologist Myrna Mack Chang, began. However, various appeals by the defense, including one questioning the legality of documents submitted as evidence, remained pending. On the first day of the trial, the president of the court ordered the defendants' imprisonment during the trial proceedings. During and leading up to the trial, witnesses, prosecutors, and at least one judge reported receiving threats (*see* Section 1.e.). In August unknown persons fired shots outside the home of Roberto Romero, attorney of private plaintiff Helen Mack, and Romero received threatening phone calls. Also in August, the IACHR ordered the Government to take necessary steps to protect Helen Mack and members of the Myrna Mack Foundation. On October 3, the court found former colonel Juan Valencia Osorio guilty and sentenced him to 30 years imprisonment.

In November the trial of the Mack case began in the Inter-American Court of Human Rights. The Court had agreed in 2000 to hear the case due to excessive delays of the application of justice in the Guatemalan courts.

On October 8, the Fourth Appeals Court annulled the 2001 conviction and sentencing of three military officers to 30-year, noncommutable sentences for the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop's Office on Human Rights (ODHAG), and ordered a retrial. At year's end, the defendants re-

mained in custody awaiting a new trial. The prosecution appealed the judges' decision.

MINUGUA continued to confirm multiple complaints of threats, acts of intimidation, and surveillance by those involved with the case (*see* Sections 1.e. and 4).

In February the Public Ministry prosecutor, Mario Leal, announced that his office had discovered that some of the 183 individuals listed in the "Military Diary" were still alive. Leal indicated his intent to call 6 witnesses to give testimony in connection with 75 criminal cases filed by the victims' families against the military.

In June former PAC members staged a mass protest in the province of Peten, occupying roads, an airport, and an oil refinery and detaining tourists, while demanding cash payments for services rendered to the army during the armed conflict. The Government's conciliatory response and promises to consider compensation provoked outrage among civil society groups, who pointed out that the Government had not yet committed to a National Reparations Plan for victims of the armed conflict, a central recommendation of the Historical Clarification Commission (CEH). As groups of former PAC members across the country joined in the demands, international human rights observers spoke out against rewarding the victimizers. The CEH held the PACs responsible for 18 percent of the massacres of unarmed civilians during the conflict.

Progress in some notorious massacre cases stalled at year's end. In August, the Inter-American Court of Human Rights agreed to hear the case of the 1982 massacre in Plan de Sanchez, Baja Verapaz, in which the army and PAC members killed 268 people. The Government has not complied with the August 2000 settlement, including economic reparations, with the survivors and the victim families.

Despite a September 2001 Supreme Court order to proceed with the trial of five guerrillas for the 1998 massacre in El Aguacate, Chimaltenango, there was no progress in the case.

Judicial proceedings in the 1995 Xaman massacre case remained suspended due to multiple appeals pending before the Constitutional Court.

The case of the 1982 military massacre at Dos Erres, Peten, remained stalled in a Guatemalan court by 26 motions of appeal. Although the Government made a reparation payment to the victims' survivors in December 2001, further obligations under the 2000 amicable settlement remained unfulfilled.

Prosecutor Mario Leal continued to interview witnesses and conduct investigations in connection with the lawsuits filed in 2000–2001 on behalf of communities whose citizens were massacred by government security forces. Leal has interviewed more than 100 witnesses and visited 4 massacre sites. The suits allege crimes, including genocide, committed by the high command of former President Fernando Romeo Lucas Garcia and that of former "de facto" president and current President of Congress, retired General Efraín Ríos Montt.

Exhumations of clandestine cemeteries continued throughout the year, although work was set back by death threats, and exhumation teams reported that some communities lost their will to participate (*see* Section 4). Forensic scientists have exhumed more than 2,000 remains from more than 280 sites since exhumations began in 1992. Most of the bodies recovered have been those of victims of military or paramilitary killings in the early 1980s. Forensics groups use the information obtained from the exhumations to verify eyewitness reports of massacres—of which the CEH recorded 669—and to determine, at least in general terms, who might have been responsible. Forensic research and DNA testing have identified some of the remains and have been used in some criminal cases.

In July Families of the Disappeared in Guatemala (FAMDEGUA) began to exhume remains of 16 guerrilla fighters killed by the army in 1990–92 and interred in common graves in Antigua, Sacatepequez. The exhumations were carried out in connection with a program that assists families seeking children lost during the conflict (*see* Section 1.b.). In August the Forensic Anthropological Foundation of Guatemala (FAFG) began to exhume several clandestine cemeteries around Rabinal, Baja Verapaz. Community records show more than 800 persons were killed in a massacre in 1981. Although the team only found 51 skeletons, including women and infant children, the majority incomplete, there was evidence that the site had been disturbed. During the year, FAFG teams also worked in Xiquin Sinai and Hacienda Vieja, Chimaltenango; Finca El Zapote, Alta Verapaz; and Inebe and Pacux, Baja Verapaz. By year's end, they had excavated 58 different sites and exhumed 417 remains.

In December 2000, a Spanish court decided not to hear a criminal complaint filed in 1999 by Rigoberta Menchu against Ríos Montt, former President Fernando Lucas Garcia, and former de facto President Oscar Humberto Mejía Victores for human rights abuses including genocide, torture, and terrorism committed during the 36-year internal conflict. Menchu petitioned the Spanish Supreme Court in March 2001

to overturn the ruling, and in February the court agreed to consider her petition. A decision was pending at year's end.

There were plausible allegations of politically motivated killings by nonstate actors during the year, with only limited willingness on the part of prosecutors to investigate such murders. In some of these cases, evidence was not sufficient to conclude whether the killing was politically motivated.

On February 15, Cesar Rodas, a witness in the Government Printing Office case (see Section 2.b.), was shot and killed while walking toward his parked car. Although Rodas carried cash and other items of value, they were not taken. The police interviewed some 20 witnesses to the crime, but were not able to establish a motive. On March 7, the IACHR ordered the Government to provide police protection to five of the witnesses, who reported being followed and threatened by unknown individuals.

On March 14, four armed men shot and killed Jorge Rosal, a regional leader of the Patriot Party, as he left the party's Guatemala City headquarters. The Ministry of government quickly discounted a political motive, even though nothing was stolen from Rosal's person. A month before, the party's founder, retired General Otto Perez Molina, had registered the new opposition party. Four days before the shooting, Rosal had participated in a march with other members of the Patriot Party involved in the Civic Movement, a political association founded to protest government corruption (see Section 2.b.). The ensuing investigation produced no suspects or motive.

On April 29, Guillermo Ovalle, an accountant at the Rigoberta Menchu Foundation, was shot and killed while having lunch in a cafeteria frequented by the staff of various human rights NGOs. Police immediately captured two suspects identified by witnesses at the scene of the crime. Nearly 4 months after the incident, the prosecutor had not completed various pretrial proceedings, such as the identification of the suspects in a line-up, due to dilatory tactics employed by the defense (see Section 4).

During the year there were several killings characterized as acts of "social cleansing" in which persons deemed as socially undesirable were murdered. Unknown individuals killed at least five male homosexual sex workers (see Section 5). Police did not identify any suspects. Street children continued to be the victims of violence by unknown persons (see Section 5).

There was no progress in the investigation of the 2000 and 2001 attacks on the son and daughter of retired General Otto Perez Molina and the killings of Patricia Castellanos Fuentes de Aguilar and Francisco Aguilar Alonzom.

There was no progress in the investigation of the May 2001 killing of Sister Barbara Ann Ford. The prosecutor assigned to the case was slow to investigate leads and was reluctant to cooperate with MINUGUA. A motive has yet to be established.

MINUGUA reported 48 lynching cases involving 104 victims during the year. In 14 cases, 20 victims died. While the number of reported lynchings increased in comparison to 2001, the numbers of deaths decreased, in large part due to the improved efforts of the police. In 2001 police intervention saved lives in 40 out of 75 cases recorded. MINUGUA continued to verify cases that were planned or premeditated events, some of which had the participation of municipal officials, local leaders, or former members of Civil Defense Patrols. The large majority of the attacks took place in heavily indigenous, rural areas that suffer from the lowest rates of human development and poverty, and where the justice system is least accessible. MINUGUA concluded that the Government's weak response to crime fueled partial public acceptance for lynchings.

Since MINUGUA began tracking individual lynching cases in 1997 and up until January, it recorded a total of 421 cases, resulting in 215 deaths. Less than 10 percent of the perpetrators of these lynchings have been tried and sentenced, and convictions were handed down in only 24 cases. In March 2001, a judge issued 41 arrest warrants for the alleged ringleaders of the 2000 lynching of 8 men at a roadblock near Xalbaquiej, Chichicastenango. The orders did not arrive at police headquarters until October 4, 2001, were subsequently sent to the Quiche station on October 22, 2001, and were finally delivered to the substation in Chichicastenango in February, almost a year later. By year's end, the police had not arrested anyone.

Although in most cases the justice system has been slow to investigate, convict, and imprison perpetrators of lynchings, the Government has demonstrated increased willingness to prosecute lynching offenders. In February a prosecutor formally charged 22 individuals with illegal detention, kidnaping, murder, illegal inhumation, and resisting arrest in connection with the October 2001 lynching of Juan Cuc, Jose Ical Xip, and Rene Alfredo Cho. On December 11, a court in Coban, Alta Verapaz, found Alfredo Caal, Esteban Quej, and Celio Ortiz guilty of the March 2001 lynching of Alvaro Hugo Martinez Perez, a justice of the peace in Senahu, Alta Verapaz, and sentenced them to 52 years in prison.

There were several unsuccessful attempts to lynch local judicial officials. On July 9, inhabitants of Nebaj, Quiche, took Judge Griselda Yoc hostage. Yoc was taken to the town plaza, where the crowd demanded that she explain the status of a case against a member of the community. On July 19, a mob stormed the justice center demanding the release of a second man whom Judge Yoc had ordered arrested for invasion of private property. The Supreme Court closed the center on July 23. Yoc and Juan Tul, a Justice of the Peace who had also been threatened, were transferred. The center remained closed for 10 days.

b. Disappearance.—There were no reports of politically motivated disappearances during the year; however, there was at least one reported disappearance during detention by security forces.

On January 29, DOAN agents, conducting a drug raid in Chochon, Izabal, illegally detained Humberto Orellana Sis. Orellana Sis subsequently disappeared and his whereabouts remain unknown (*see* Section 1.a.).

On May 3, a human rights worker was abducted and tortured by unknown men, who made cuts on his abdomen with a knife while questioning him about his work (*see* Section 4).

Disappearances in high-profile cases from past years remained unresolved at year's end. There was no progress in the investigation into the 2000 disappearance of University of San Carlos professor and social activist Mayra Gutierrez, and the case remained pending before the IACHR. There was also no progress in the disappearance case of Mynor Pineda Augustin following his 2000 arrest for kidnapping.

In June the National Commission for the Search for Disappeared Children, created by civil society organizations in June 2001 after the Government failed to follow the recommendation of the Historical Clarification Commission to create such a body to search for children who had disappeared during and since the armed conflict, released a report on its first year of work. The Commission documented 425 cases of disappeared children and facilitated 17 family reunifications. The Commission reported that the primary obstacle to its work was the military's refusal to provide access to its records on captured children. In February the U.N. Special Rapporteur for Children in Armed Conflicts recommended that the Commission be officially recognized and enjoy formal participation by the Government (*see* Section 4).

In June 2001, groups associated with the National Human Rights Coordinator filed 5,000 habeas corpus briefs on behalf of individuals who disappeared between March 6, 1965, and October 19, 1993. The briefs were processed immediately by the Supreme Court and sent to the sentencing court to be investigated; however, little progress was made.

In February the Inter-American Court for Human Rights ordered the Government to locate, exhume, and relinquish the remains of guerrilla leader Efraim Bamaca Velasquez, who disappeared in 1992, publicly acknowledge responsibility for his death, and pay \$498,000 (3,859,500 quetzals) in damages to his survivors.

The appeal of the September 2001 decision of the trial court to dismiss, for lack of sufficient evidence, the case against retired General and former de facto president Oscar Mejia Victores for his alleged role in the 1984 disappearance of Fernando Garcia continued at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for the integrity and security of the person and prohibits physical or psychological torture of prisoners; however, there were credible reports of torture, abuse, and other mistreatment by members of the PNC during the year. These complaints typically involved the use of excessive force during arrests, interrogations, or other police operations. SIC detectives continued to torture and beat detainees during interrogation to obtain forced confessions, as did DOAN agents in one case. The Government and the PNC showed little willingness to investigate, prosecute, or otherwise punish officers who committed abuses. The PNC transferred some cases of alleged torture to the Prosecutor's Office. There were a significant number of murder victims whose bodies demonstrated signs of torture or cruel treatment (*see* Section 1.a.).

In its 13th Report on Human Rights, MINUGUA reported receiving 551 complaints of torture, cruel, inhuman and degrading treatment, and confirmed 270. The police, especially the Criminal Investigative Service (SIC), committed the majority of violations. While complaints of cruel, inhuman, and degrading treatment by police increased by 128 percent, complaints of torture by police declined by 57 percent. The police sometimes punished the use of excessive or illegal force by officers; however, they more often merely transferred offenders to a different location. In several cases, there was credible evidence that police officers and their superiors altered docu-

mentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct.

On January 29, DOAN agents unlawfully detained Porfirio Sanchez Grijalba, Carlos Humberto Padilla, and Elio Hernandez Sanchez during an alleged drug raid in Chocon, Izabal. All three were beaten. A hood containing insecticide was placed over Sanchez's head while he was interrogated and Hernandez's testicles were crushed (*see* Section 1.a.).

On February 8, a PNC officer raped two women who were detained in a police station in Villa Nueva. On February 13, two other women reported that they had been asked for sexual favors by officers in the same station in exchange for the alteration of the report detailing their crime. They reported that when they refused, they too were raped. The ORP did not open an investigation, and the offending officers were transferred to another station.

On April 4, the corpses of two men who were illegally detained by PNC officers were found, showing signs of torture (*see* Section 1.a.).

On May 3, a human rights worker was abducted and tortured by unknown men, who made cuts on his abdomen with a knife while questioning him about his work (*see* Section

On September 6, the decapitated body of Manuel Garcia de la Cruz, member of National Coordinator of Widows (CONAVIGUA), a human rights group, was found in Joyabaj, Quiche. The police have not identified any suspects.

Casa Alianza, an NGO, reported that the number of incidents of killing and abuse of street children increased (*see* Sections 1.a. and 5).

During the year, groups of peasants forcibly occupied more than 60 farms in attempts to gain land. In most cases eviction orders were not enforced. In some cases, evictions were carried out peacefully. There were also isolated reports of excessive force by the police. On March 8, a police officer was accused of killing Jose Benjamin Perez in Morales, Izabal (*see* Section 1.a.).

Corruption continued to be a major problem, and there were credible allegations of involvement by individual police officers in criminal activity, including kidnappings. Rather than discipline its officers, the police often just transferred them to a different part of the country. Transfers are a common practice and are used to avoid personnel problems, corruption, and questions of mistreatment of detainees. Impunity for police who commit abuses remained a serious problem.

All PNC members were required to meet minimum education requirements and pass an entrance examination. There were also screening procedures to detect suspected human rights violators and officers involved in criminal activities. Beginning in January, new recruits were required to complete an 11-month training course, including 60 hours of human rights training and 20 hours of ethics, before entering on duty. Previously training lasted 6 months and incorporated 35 course hours on human rights. The military also made efforts to incorporate human rights training into its curriculum. In March the army sponsored a Regional Human Rights Seminar with other militaries in Latin America to discuss performance measures for human rights standards.

In November 2001, the Government reached the Peace Accords goal of putting 20,000 police on active duty. At year's end, PNC officers numbered 21,180, representing 1 police officer for every 2,200 people. Representation outside of the capital is improving; however, approximately two-thirds of those police districts remained 60 to 75 percent staffed.

During the year several human rights NGOs and the Institute of Comparative Studies in Penal Science formed the Council of Monitoring and Support to Public Security to oversee the progress of reforms to the PNC. In July it released its first report, which stated that the principal problems facing the police were a lack of professionalization, military influence, a lack of resources, and a lack of internal controls. The Council reported that the constant turnover in leadership, including both the director of the PNC and the Minister of Interior, hampered continuity in policy and generated insecurity within the institution. A lack of basic supplies such as fuel and parts for vehicles, radios, and uniforms, further inhibited its effectiveness. During the year, the Government transferred funds from the PNC to both the Ministry of Defense and the EMP, while the Police Academy suffered from a severe lack of financial resources.

In 1998 the PNC accepted some 60 police candidates from indigenous communities in the Ixil region—approximately 30 of whom graduated on their first attempt—to ensure that PNC personnel in those communities would be proficient in the local language and able to operate effectively in those communities. According to MINUGUA, approximately 7 percent of PNC officers speak an indigenous language. More officers who speak an indigenous language have been assigned to a

town where this skill can be put to use. Approximately 75 percent now work in the geographic area of their particular linguistic competency.

According to the Interior Ministry, there were more than 60,000 private security agents working in the country. Many firms have not completed legal requirements and are owned by ex-soldiers and policemen. Their forces outnumbered the police. The Ministry has done little to investigate this issue, despite its jurisdiction over the regulation of private security firms. In February, a court sentenced a private guard to 30 years' imprisonment for the 2000 killing of a father and son.

The ORP performs internal investigations of misconduct by police officers. Despite greater numbers of police officers on duty throughout the country and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. The ORP has a strong corps of investigators and has shown a considerable degree of improvement in professionalism. However, their independence and effectiveness has been hampered to some degree by the lack of support from the PNC leadership. There were isolated cases in which ORP investigators appeared to participate in cover-ups of police misconduct. The ORP reported that in 2001, it received 1,693 complaints, including 29 cases of homicide, 131 cases of abuse of authority, 136 cases of threats, 201 cases of robbery, 7 cases of kidnaping, 63 cases of unlawful detention, and 150 cases of corruption. The ORP received 1,581 complaints in 2000, including 43 of homicide, 222 of abuse of authority, 104 of robbery, 141 of corruption, 108 of improper conduct, 107 of threats, and 72 of illegal detention. Cases in which sufficient evidence suggested that criminal acts were committed were forwarded to the Public Ministry for further investigation and prosecution. In 2001 the PNC fired 467 officers. In 2001 the ORP closed 878 cases, compared to 870 cases in 2000. The investigators found 35 percent of officers culpable and exonerated 65 percent.

No active members of the military serve in the police command structure. However, a 2000 law allows the Government to employ the army to support temporarily the police in response to the rising rates of violent crime. Under the law, military personnel are not clearly subordinated to police control during joint patrols or operations. In a May publication on the military's compliance with the Peace Accords, MINUGUA noted that in some cases the army conducted patrols independently and ordered district police chiefs to submit written reports of their activities to local base commanders. The practice put the institutional development of the PNC and judicial due process at risk and was a serious setback for the demilitarization of public security as stipulated by the Accords. MINUGUA reported that there was no evidence that crime levels decreased as a result of the initiative.

On February 28, a shootout between members of the SIC and military intelligence personnel during an alleged joint operation left two dead. The subsequent investigation revealed alteration of official reports, disturbance of the crime scene, and links between participants and clandestine criminal networks (see Section 1.a.).

In May MINUGUA noted that excessive physical punishment continued to play a role in the training methods of both the Kaibil army special forces unit and the Adolfo V. Hall military academy.

Prison conditions remained harsh but generally not life threatening. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. In September the prison system reported that its capacity nationwide was 6,870; however, the prison population at the time was 7,103. Fifty-five percent of the prison population was not serving prison terms but was being held in pretrial detention. Pretrial detainees often were not separated from convicted criminals. However, in June the Director of the Penitentiary System announced renewed efforts to ensure their separation. Many were released either on good behavior or because they never were sentenced. Some institutions were overcrowded, but the Government made efforts to build new facilities and in August opened a maximum security prison in Culiapa. The new facility featured a recreation area, a private visiting area, and medical and mental health clinics. The guards assigned to the facility were recent graduates of the School for Prison Studies, created in 2001 to professionalize the prison system's staff. By year's end, 955 guards had graduated from the program. The average guard-to-prisoner ratio is 1 to 12.

On December 23 and 24, inmates at Pavoncito prison staged violent protests over the quality of food, the lack of visitation rights, and poor living conditions. The prisoners eventually took control of the prison. During the tumult, 14 prisoners were killed and 50 were wounded. Practically all of the killings were committed by rival groups of prisoners. NGOs allege that a pre-holiday roundup of youths for pre-trial detention contributed to the rioting by disrupting the balance of power between youth and more established gangs in prison.

Prisoners continued to complain of inadequate food and medical care. Corruption, especially drug-related, was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. The military continued to provide perimeter security for various prisons, as it has done since 1998.

In June 2001, 78 prisoners escaped from the maximum-security prison facility in Escuintla. More than a year later, the authorities had recaptured 53; 11 were killed, often under questionable circumstances; and 14 others remained at large. Although the deaths of four of the escapees were attributed to rival gangs, numerous activists questioned whether the killings were instead an act of social cleansing by authorities or parastatal elements.

According to press reports, the organizers of the June 2001 prison break had bribed prison officials. On March 4, the trial of 20 guards, 2 wardens, the director, and the vice-director of the prison for allegedly collaborating with the breakout began. It lasted more than 2 months as judges heard the testimony of more than 80 witnesses. The director of the prison implicated high-level authorities in the prison system as well as the ex-Minister of Interior, Byron Barrientos, who was called for questioning but not charged with any crime. On May 23, the Criminal Court of Escuintla sentenced the director and vice director, the wardens, and a commander of the guard forces to five-year, commutable sentences. The remainder were absolved. In June the prosecutor asked for a retrial after various witnesses retracted their statements.

In the wake of the prison break, a Consultative Commission on the National Penitentiary System was established to analyze the existing system and develop recommendations for improvements. The Commission's final report found conditions to be very poor, especially for special needs groups such as the sick, elderly, or disabled. It found that prisoners often take control inside prisons and run criminal rings while incarcerated, and that guards are often corrupt and poorly trained. It submitted reform proposals to Congress that would allow every prisoner to work and receive remuneration, provide educational opportunities, form libraries, improve hygiene, strengthen security, and improve infrastructure. During the year the Government made some progress in improving access to education and skills training for inmates.

The 401 female prisoners in the penal system generally are held in facilities separate from men. However, the conditions are equally poor. The Government permitted access to prisons by family members. Immigration detention facilities do not always keep female detainees separate from the male population.

Children are held in separate detention facilities. According to a 2000 MINUGUA report, there are only five juvenile delinquent facilities in the country, and approximately 39 percent of the children housed in these facilities have sought protection from the state and have committed no offense.

In May the Constitutional Court ordered that a date be set for the implementation of the version of the Minors' Code proposed by the FRG-led Congress to supplant the outdated 1979 Code presently in force (*see* Section 4).

The vast majority of juveniles detained by authorities are between 16 and 18 years old; 84 percent are boys. The Secretariat for Social Welfare runs four Centers for the Treatment and Orientation of Minors: one for girls and three for boys. Officials do not separate adequately those who have been convicted and are serving a sentence from pre-trial detainees. Those who are serving time for minor infractions are often held with those who have committed serious offenses. Adequate sanitation, hygiene, and nutrition are persistent problems within the under-funded system.

The Government permits prison visits by independent human rights monitors, public defenders, and religious groups.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention. However, there were frequent credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers frequently fail to satisfy legal requisites, especially with minors. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for more than 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file the case in court or seek a formal extension of the detention period. The law also provides for access to lawyers and bail for most crimes.

There are no comprehensive, reliable data on the number of arbitrary detentions, although most accounts agree that security forces routinely ignored writs of habeas corpus in cases of illegal detention. In its 12th report, MINUGUA investigated 110 cases of illegal or arbitrary detention, and confirmed 88 of them. These figures re-

flected an increase over the previous reporting cycle, in which MINUGUA investigated some 31 cases of illegal or arbitrary detention, and confirmed 23.

A study of the due process of minors in detention found that 95 percent of arrests of minors are without a warrant. Of these cases, 87 percent never go to trial. When the court system analyzed arrest warrants for juveniles, it found such reasons as having tattoos or scandalous behavior in public.

According to the registry maintained by the prison system, there were a total of 8,077 prisoners throughout the country. Of those, 3,092 had been sentenced and the rest awaited trial. The law sets a limit of 3 months for pre-trial detention; however, longer detentions still occurred routinely. Prisoners often were detained past their legal trial or release dates, sometimes for years. Prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems.

The Constitution prohibits exile, and it is not practiced as a matter of policy. However, self-exile is a very common response by citizens who feel threatened or intimidated.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system often fails to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The system's response to human rights violations, as well as to general criminal activity, has been inadequate. Many high-profile human rights cases remained pending in the courts for long periods as defense attorneys employed numerous dilatory appeals and motions. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. Intimidation and killing of witnesses continued to be a problem; there were credible reports of the killing and threatening of witnesses (*see* Section 1.a. and 1.c.).

Judges and prosecutors continued to receive threats designed to influence pending decisions or to seek reprisal for past decisions. Death threats and intimidation of the judiciary were common in cases involving human rights violations, particularly when the defendants were active or former members of the military, military commissioners, or former members of Civil Defense Patrols. Witnesses are often too intimidated to testify. With relatively few exceptions, plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation, and surveillance. Prosecutors, judges, and witnesses associated with the Gerardi case reported continued threats, as did witnesses, prosecutors, and at least one judge in the Mack case (*see* Section 1.a.). In July, unknown individuals fired shots into the office of Flor de Maria Garcia, who served as a judge in the Gerardi case. Those involved in government corruption cases were also targeted, as in January when the SIC uncovered a plot to assassinate the prosecutor handling a case implicating former Minister of Interior Byron Barrientos and several vice-ministers.

Many judges are denied health and life insurance because the threats and intimidation that they receive make their jobs too dangerous. The Government allocated more resources to the judiciary's physical security, including providing protective details for a judge and members of the prosecution team in the Mack case (*see* Section 1.a.). In July the Supreme Court announced the creation of a permanent unit of 160 bodyguards to provide security for threatened judges and magistrates. By September the Public Ministry had spent approximately \$195,000 (1.5 million quetzals) on its witness protection program. In June the Association of Judges and Magistrates announced that 51 judges had been threatened during the first 6 months of the year. By July 31, the Special Prosecutor for crimes against judicial personnel had been assigned 150 cases; however, the unit lacks the personnel and resources necessary to carry out its mission.

In March the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Param Cumaraswamy, submitted the report of his May 2001 fact-finding mission to the U.N. Commission on Human Rights. While the report applauded efforts to professionalize the judiciary, it noted that harassment and threats to justice workers had increased and that adequate steps to ensure their security had not been taken, thereby undermining their independence.

On April 15, an office in the headquarters of the Institute for Public Penal Defense was broken into and ransacked. The incident occurred while the Advisory Board was in session on a different floor of the building. The perpetrators stole case processing computers, other electronic equipment, and paper files, and urinated on desks and furniture before leaving the office.

There were several unsuccessful attempts to lynch local judicial officials (*see* Section 1.a.).

The judiciary is composed of the Supreme Court, appellate courts, trial courts, and Probable Cause Judges (who function like grand juries). There also are courts of special jurisdiction, such as labor courts and family courts, which also are under the jurisdiction of the Supreme Court. The Constitutional Court is independent of the rest of the judiciary. There are several community courts in indigenous rural areas.

The Constitution requires that Congress elect all Supreme Court and appellate court magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, law school deans, and university rectors.

The Criminal Procedures Code provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea bargaining, and the possibility of release on bail. Trials are public, allowing victims, family members, and human rights groups to observe the process. Three-judge panels render verdicts. The Criminal Procedures Code introduced oral trials; however, only those attorneys who have graduated since 1994 have had any real training in oral trials. In 2001 an innovative pilot project was initiated in the municipalities of Zacapa and Quetzaltenango to present pretrial motions orally, rather than in writing, and the Supreme Court approved the extension of the project throughout the country. The code also provides for language interpretation for those who require it. However, in practice this provision is rarely honored due to budgetary and other constraints (*see* Section 5). During the year, there were six interpreters, six bilingual public defenders assistants, and four public defenders who spoke indigenous languages throughout the country working with the Institute for Public Defense. The Prosecutor's Office, which is independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as co-plaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often lead to excessively long pre-trial detention (*see* Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties continued to use such motions as delaying tactics, frequently holding up trials for several months or even years.

Inefficiency, lack of resources, and corruption in the courts, Public Ministry, and police continued to impede the proper functioning of the judicial system and to undermine the right to due process. In March magistrates from the Supreme Court threatened to take legal action if Congress did not approve an increase of approximately \$23 million (180 million quetzals) in the budget for the year. The Court argued that by not authorizing sufficient funds for the functioning of the judicial system, Congress violated the Constitution. The authorized budget was almost \$13 million (100 million quetzals) less than in 2001. Several judges alleged that the cuts were retribution for Court decisions that permitted legal action against several FRG deputies. In May an agreement was reached with the Ministry of Finance to transfer the needed funds.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. In 2001 the Discipline Unit investigated 503 cases of wrongdoing. As a result of those investigations, 14 judges were sanctioned, 32 were suspended, and 4 were sanctioned with the recommendation that they be removed. Of the sanctions, 1,159 were findings of impropriety, 66 were warnings, 9 judges were fired, and 1 was suspended. Magistrates received 13 findings of impropriety.

The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of qualified investigators. Prosecutors remained susceptible to intimidation and corruption. In addition, the law's failure to delineate the responsibility for investigating crimes to either the PNC or the Public Ministry led to continued infighting and competition between these organizations, as well as the duplication of investigative efforts. On May 9, Carlos de Leon was appointed as new Attorney General and head of the Public Ministry. De Leon argued that a lack of funding was the source of most of the Ministry's deficiencies. In August he announced that he would ask Congress to increase the Ministry's budget by 60 percent in 2003.

The 1999 Law on Judicial Careers established a system to regulate the income, terms of office, promotion, training, disciplining, and other activities of judges and magistrates. It provided for a mandatory 6-month training course for all newly appointed judges. The panel reviewed numerous cases and issued sanctions ranging from letters of reprimand to firing. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions.

In March the Disciplinary Unit suspended two judges from the 14th Appellate Court of Coban for releasing two captured drug traffickers on bail. The Unit found

the judges guilty of ineptitude, not corruption, despite allegations that the suspects had paid approximately \$195,000 (1,511,250 quetzals) for their liberty. The judges were suspended for 3 months without pay.

In April the Judicial Career Council reviewed the performance of 66 judges who were hired in 1996 and were required under the 1999 law to be evaluated to enter the Judicial Career system at the termination of their contract. Seventeen contracts were not renewed.

In cooperation with foreign donors, the Government continued its efforts to reform the judicial system. Twelve justice centers, which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, and civil society in a team approach to dispute resolution and problem solving, continued to provide efficient public service. Clerk of Court offices, established in 1999, streamlined case processing, increased transparency, improved customer service, and virtually eliminated the phenomenon whereby one could bribe a court official to "lose" a case file. An analogous system was inaugurated in Guatemala City in the Prosecutor's Office Case Intake Unit. A modernized intake system reduced the average waiting time for filing a complaint from several hours to approximately 10 minutes. In 2001 a new Prosecutor's Office Victim's Unit also was inaugurated in the capital, with doctors and nurses on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases (*see* Section 5). These units have been extended to every department of the country.

Despite some progress, much remains to be done to reform the judiciary and establish effective rule of law, as mandated by the Peace Accords. The National Commission for the Strengthening of Justice, created following the Peace Accords, announced a strategic plan in 2001 to refine the roles of justices of the peace, institute reforms to the penal code, and reduce duplication of work in the criminal labs run by the police, the Public Ministry, and the judiciary. Much of the plan has yet to be implemented.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of home, correspondence, and private documents. However, allegations persist that the authorities sometimes disregard these provisions. Elements of the military, specifically the EMP and the Directorate of Military Intelligence, reportedly continued to monitor private communications. During the year, most human rights organizations reported surveillance or telephone anomalies that suggested wiretapping (*see* Section 4). In August the recently elected Human Rights Ombudsman also discovered that his office was being monitored. Although authorities announced their intent to investigate, no culprit was named. There was no progress in the Public Ministry's 2001 case against Colonel Juan Valencia Osorio, former director of security of the EMP, for spying. On October 3, a court found Valencia guilty of ordering the murder of Myrna Mack in 1990 and sentenced him to 30 years' imprisonment (*see* Section 1.a.).

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment, as the armed forces found it relatively easy to recruit young male volunteers from impoverished areas using pay and education incentives.

During the year, there were several reported cases of government employees being forced to make contributions to the ruling party, the FRG, as well as become party members, to obtain or keep their jobs. For example, on February 1, 14 road workers were notified that their work contracts were cancelled for refusing to make a monthly payment of approximately \$13 (100 quetzales), or two and one-half days' wages, to support the FRG.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression, and the Government generally respected this right in practice; however, there were numerous credible reports that members of the press were targets of anonymous threats and intimidation. Self-censorship was common and took the form of individual decisions not to speak out or testify or media decisions not to report certain issues.

On August 16, the scheduled trial of Bruce Harris, director of Casa Alianza, was suspended after the 12th Criminal Court excused itself from hearing the case. Attorney Susana de Umana filed a defamation case against Harris in 1997 after the results of an investigation conducted by the Attorney General into anomalies in 18 adoption cases, one of which de Umana had processed, were made public. Harris filed several appeals, but in 1999 the Constitutional Court ruled that Harris did not enjoy the right to free speech, as he was not a journalist. The U.N. High Commis-

sioner for Human Rights, Mary Robinson, expressed concern over the progress in the case and the apparent restriction on freedom of expression.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors. The press also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks. There are seven major dailies published in the capital and approximately six local papers published outside the city.

The Government prepared public information programs that the radio and television stations were required to broadcast. The Government holds the rights to two national (VHF) television channels; however, neither broadcast any programs during the year. In March President Portillo announced a plan to turn over Channel 5—nominally assigned to the army—to an institution representing civil society. In June the Government selected the Catholic Church to take over the channel; however, in July the Church declined the offer, saying its leaders lacked time and expertise to manage a television operation.

Despite its Peace Accords pledge to enact reforms to the Radio Communications Law to make radio frequencies available for indigenous communities, the Government instead created a public auction system for radio frequencies. Commercial operators generally outbid community groups, thwarting community access. Responding to complaints by commercial operators that some community stations were unlicensed “pirates” interfering with licensed frequencies, in February the Superintendency of Telecommunications announced a plan to fine and/or shut down unauthorized frequencies. In response, members of the Guatemala Council of Community Media appeared before Congress to ask for a guarantee that 25 percent of available frequencies would be assigned to community radio stations. Negotiations continued at year’s end.

All four of the country’s national television stations are owned by a Mexican citizen, Angel Gonzalez, who plays a significant role in politics. These channels were criticized strongly as being monopolistic, pro-government, and interested in broadcasting only uncontroversial news.

In March the President’s Commission for Human Rights (COPREDEH) published the book “She Who Never Kept Silent,” a collection of the writings of journalist Irma Flaquer who, before she was kidnaped in 1980, published a column titled “What Others Conceal” that was critical of atrocities committed during the conflict. In April the Government paid a settlement of approximately \$231,000 (1.8 million quetzals) to Flaquer’s family. Publication of the book and the payment were stipulated as part of a 2001 settlement negotiated between the Government, the Inter-American Press Society, and Flaquer’s survivors. There was no progress, however, in the investigation of the case, which was reopened by a special prosecutor in December 2001.

Death threats against journalists and other citizens critical of corruption were reported widely throughout the country. In December 2001, an editorial columnist for national daily “Siglo Veintiuno” left the country after receiving numerous e-mail and telephone death threats for his criticism of the Government.

On June 7, four journalists received a written anonymous death threat. The letter was addressed to a total of 11 individuals who are active in the promotion of respect for human rights (*see* Section 4).

Investigations continued in the September 2001 shooting death of Mynor Alegria Almendaris, host of Direct Line, a call-in program on Radio Amatique, in Puerto Barrios, Izabal. Alegria had accused officials and port authorities at Puerto Santo Tomas and the town of Puerto Barrios of embezzlement, bribery, and other abuses. On January 16, witness Erik Duarte accused the Mayor of Puerto Barrios, Mario Chigua Gonzalez, of having contracted Alegria’s murder. On January 24, police detained Alegria’s ex-girlfriend Olga Linares and her sister, Rosa, as possible accomplices. On April 19, a court revoked Chigua’s immunity so he could be subjected to trial. In May Duarte retracted his statements, reported being threatened, and claimed that he was pressured into blaming Chigua. On July 2, authorities apprehended Jairo Gomez Sandoval for the murder. In July both Gomez and Duarte then testified that two other individuals, acting Mayor of Puerto Barrios Carlos Cantoral and local businessmen Erik Castaneda, had paid for Alegria’s killing. On July 25, police captured a second suspect, Estuardo Orozco. On September 12, the High Impact Court of Chiquimula released Olga and Rosa Linares for lack of evidence.

In August 2001, Congressional deputies Anabella de Leon and Magda Arceo, along with the previous director of the National Printing Office, Sylvia Mendez, accused the director of the office and then and current Vice President Francisco Reyes Lopez of abuse of authority for allegedly ordering government printers to produce flyers

criticizing Jorge Briz, the President of the Guatemalan Chamber of Commerce and a vocal critic of the Government. As a result of the ensuing investigation, the women received numerous death threats and Arceo, Mendez, and numerous other witnesses went into exile. Another witness was murdered on February 15 (*see* Section 1.a.).

In January the Supreme Court suspended a new Law of Obligatory Professional Association that was interpreted as requiring every working journalist to hold a journalism degree, belong to a professional association, and receive a government license. The Supreme Court determined that the law represented a violation of Constitutional guarantees of freedom of expression and association.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly and the Government generally respected this right in practice. Peaceful demonstrations were common. There were a variety of protests around the country to demonstrate opposition to a variety of issues, for example: corruption by high-level government officials, new taxes, the Government's inability to resolve land conflicts, community water access, and persecution of human rights activists. Among others, the disabled, those suffering from HIV infection, former PAC members, street vendors, and war widows conducted demonstrations.

On January 15, the Guatemalan National Revolutionary Unity Party (URNG) prepared a counter-presentation to the President's report to Congress on the achievements of his first 2 years in office. FRG supporters, who were bussed to the site of the National Congress, arrived and allegedly beat URNG activists, burned their flags, and destroyed their platform. Members of the National Advisory for Youth, led by Juan Pablo Rios, grandson of Congress President and retired General Efraim Rios Montt, reportedly organized the attack and paid a musical group to drown out the URNG's protests. Police did not respond to calls for help. URNG Congressional deputies demanded that the FRG clarify its involvement in the event.

In March former guerrilla leader Alvaro Colom and retired General Otto Perez Molina formed the Civic Movement and organized several marches to protest government corruption. During the first and largest on March 13, the Secretariat of Communication ran a series of paid radio and television announcements discrediting the Movement.

Protests became violent on several occasions. Police generally acted with restraint; however, there were some allegations of unnecessary use of force. On May 23, transit police violently dislodged several food vendors from a street in Guatemala City, destroying tables and personal belongings and clubbing several people. On other occasions, security forces were unable to keep the peace. On June 10, between 5,000 and 20,000 residents of Tecpan, Chimaltenango, protested against the collection of a property tax. Demonstrators damaged several buildings, looted stores, and broke into the police station where they removed weapons and equipment, wounded 13 police officers, and took several hostages before reinforcements dispersed the crowd. On June 11, police arrested five indigenous protest leaders.

On August 22, groups of landless peasants seized highways for 10 hours to pressure the Government into meeting outstanding demands associated with land claims. Commerce was widely disrupted for several hours. The peasants ended the blockage shortly after a government spokesman announced initiatives to convoque dialogue with landowners and seek additional funds for the Government land bank.

The Constitution provides for freedom of association, and the Government generally respected it in practice. However, there were credible allegations that the Government interfered with political associations.

On March 16, not long after completion of the registration requirements for Perez Molina's political party, the Patriot Party, several armed men shot and killed Jorge Rosal, a regional party leader (*see* Section 1.a.).

In April in the space of 24 hours, unknown persons broke into the offices of two opposition parties, the Unified Democratic Left and the Authentic Development parties. Computer equipment, paper files, and a map were stolen, although cash in an office drawer was not.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government has not implemented the 1995 Agreement on the Identity and Rights of Indigenous People, which provides for respect of spiritual rights of indigenous people. There is no state religion; however, the Constitution recognizes explicitly the separate legal status of the Catholic Church. The Government does not subsidize religious groups directly. However, during the year commercial radio operators charged that the ruling FRG was giving financial support to evangelical Christian radio stations in different

areas of the country, presumably in exchange for future political support. Members of a religion need not register to worship together. However, the Government requires religious congregations (other than the Catholic Church), as well as other nonreligious associations and NGOs, to register as legal entities to transact business.

While there is no government policy of discrimination, a lack of resources and political will to enforce existing laws and to implement the Peace Accords limits the free expression of indigenous religious practice. Indigenous leaders state that Maya culture does not receive the official recognition it is due. The Government has not provided mechanisms for free access to ceremonial sites considered sacred within indigenous culture, nor has the Government provided for the preservation or protection of such ceremonial sites as archaeological preserves. Some indigenous groups consider the Government's use of sacred sites as revenue-generating tourist destinations to be an affront to their spiritual rights.

There was little progress in the ongoing appeals to the June 2001 sentencing of three military officers to 30-year, noncommutable sentences for the 1998 murder of Bishop Juan Gerardi, the Coordinator of the Archbishop's Office on Human Rights (ODHAG) (see Section 1.a.).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

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

Persons attempting to enter the country illegally were often subject to extortion and mistreatment by government officials. Many observers believe this mistreatment is underreported because illegal immigrants almost never have the capacity to lodge formal complaints, either with the authorities or against them, and there is little legal assistance available to such immigrants. The Migrant's House, an NGO, reported that from 1997 to 2001, approximately 40 percent of the migrants they assisted reported some form of abuse.

The Government grants refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for those 18 years of age and older. Ballots are secret. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been nine free elections. International observers concluded that both the November 1999 general election and the December 1999 runoff presidential election were generally free and fair. Lack of transport, onerous voter registration requirements, and the scheduling of elections during the harvest season prevented many poor, indigenous, and rural persons from voting. A significant percentage of the rural poor population lacks the documentation needed to register to vote. Several campaigns exist to document citizens, particularly among the illiterate.

Voters elect the 113-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. Voter participation in the 1999 elections was at a 13-year high. Four parties and 2 coalitions won seats in the legislature, led by the FRG with a 63-seat majority, followed by the PAN with 21 seats, the Bancada Unionista with 16 seats, and the New Nation Alliance coalition, which includes the URNG, with 9 seats. Other small parties hold a total of four seats. Congress can and does act independently of the Executive; however, fragmentation along party lines and a weak staff and support structure result in a legislature that is relatively ineffective. Congress increased its relative power and independence under the leadership of FRG President of Congress and retired General Efraim Rios Montt, a former de facto president.

In December 1999, voters elected FRG presidential candidate Alfonso Portillo in a runoff election that international observers characterized as free and fair. He took office in January 2000.

During the year, there were allegations that government officials made FRG membership a prerequisite for government employment and demanded that monthly contributions be made to the party coffers (see Section 1.f.).

There are no legal restrictions, and few practical ones, on the participation of women in the political process. In 2001 MINUGUA reported that only 69 percent of women of voting age were registered to vote, and that of this group only 33 percent voted. The major parties nominated and elected fewer female candidates for Congress in the 1999 elections. However, women's participation as voters was the highest ever, despite social traditions that inhibit voting by women. Voters elected 8 women to the 113-member Congress in 1999, and that number increased to 12 as substitutes took the seats of members of Congress recruited to serve in the executive branch. One woman, Zury Rios de Lopez, daughter of Rios Montt, is the Second Vice President of Congress. Women hold two seats on the Supreme Court and one on the Constitutional Court. There were three female ministers in the Cabinet—the Minister for Culture and Sports, the Minister of Communication and Public Works, and the Minister of Economy. Less than 1 percent of the 330 mayors and less than 5 percent of the municipal officials in the country were women.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, but indigenous people still are underrepresented significantly in politics due to limited educational opportunities and pervasive discrimination (see Section 5). There are two indigenous members in the Cabinet. While indigenous people make up 60 percent of the population, they represent only 1 of 12 ministers and 1 of 12 presidential secretaries. Of 113 members of Congress, 14 are indigenous. There are 113 indigenous mayors in the country, out of 331 municipalities, including Quezaltenango, the second-largest city. There were two indigenous ambassadors.

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

The Government permits local human rights groups to operate without restriction, and numerous domestic and international groups investigate and report freely on human rights issues; however, during the year, many NGOs and human rights workers received threats or were intimidated by unidentified persons. Senior government officials met with numerous foreign government officials and international human rights monitors. Some government officials, however, questioned the credibility of both domestic human rights workers and international monitors. Many human rights workers believed this public disregard emboldened those who threatened them. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

During the year, there was a marked increase in the number of threats against human rights workers, as well as against journalists and judicial personnel (see Sections 1.a., 1.e., and 2.a.). During the year, there were 154 acts of intimidation perpetrated against human rights workers. Most of these acts of intimidation involved anonymous telephonic or written threats, surveillance, and unknown individuals and cars following human rights workers or watching their workplaces or residences. Prosecutors, judges, and witnesses in various human rights cases, notably in the Myrna Mack case, also reported being the targets of various acts of intimidation (see Section 1.e.). Some of the attacks showed high degrees of sophistication and technical expertise.

Throughout the year, personnel in the Archbishop's Human Rights Office reported multiple death threats, surveillance, and other acts of intimidation. Some of the victims were those involved in the Gerardi case (see Sections 1.a. and 1.e.); others appear to have been targeted for their work putting the Historical Memory Report project in digital format for wider distribution.

On February 21, 11 individuals associated with forensic anthropology teams investigating mass graves from the armed conflict received a very specific and credible death threat. In the months that followed, several of those named in the death threat received intimidating phone calls, were accosted and threatened by armed men, and reported that their homes were under surveillance. At least four individuals fled the country. Also on February 21, a Catholic parish house in Nebaj that forensic teams had used to store equipment was burned to the ground. Experts concluded that it was arson. The parish priest, Rigoberto Perez, actively supported the work of the anthropologists and reported receiving death threats in the months that followed the fire.

On March 3, the Archbishop of San Marcos, Alvaro Ramazzini, received a death threat, presumably from individuals attempting to discourage his work in ministering to squatters who occupied local farms. Two weeks later, unknown persons raided his offices, scattered files, and damaged computer equipment.

On March 7, unknown persons broke into the offices of Casa Alianza and stole the files of 19 street children. A similar break-in had occurred in April 2001, when the files of 12 street children were stolen. Casa Alianza personnel also reported being accosted and threatened on several occasions during the year.

Prosecutors ended an investigation into the July 2001 incident in which an Amnesty International (AI) worker was found tied and gagged in her hotel in Guatemala City. Guatemalan authorities dropped the case after an investigation into a similar allegation in another country involving the same AI worker proved inconclusive.

On March 20, the offices of the Association for the Advancement of Social Sciences (AVANSCO) were broken into, although only a checkbook was stolen. The incident occurred a few days after the presentation of a report on post-conflict power structures linked to the military and former members of the Civil Defense Patrols in Huehuetenango and Quiche. In October 2001, the laptop computer of the report's researcher, Matilde Gonzalez Izas, was stolen from her home. In addition, Gonzalez received telephone threats and reported being followed.

On April 29, Guillermo Ovalle, an accountant for the Rigoberta Menchu Foundation (and nephew of its director), was shot and killed in a cafeteria near the Foundation's offices. While the incident contained some elements consistent with common crime, international human rights monitors did not rule out the possibility of a political motive, as threatening phone calls were made to the Foundation at the time of the killing and unknown individuals were reportedly seen watching the offices (*see* Section 1.a.).

On May 3, Domingo Yaxon, member of the Movement of Young Mayans and CONAVIGUA, was abducted and assaulted after leaving a human rights demonstration in front of the Presidential Palace. Yaxon was questioned about his work, threatened, tortured, and left unconscious in front of a funeral home (*see* Section 1.c.).

On June 7, 11 prominent human rights leaders and journalists received a death threat. The letter was addressed to the "enemies of the fatherland" and accused those listed of tarnishing the country's image with their "nonsensical talk." Human rights groups felt the attack was in retaliation for the focus the June visit of the U.N. Special Rapporteur for Human Rights Defenders had put on the existence of clandestine groups tied to the Government and their responsibility for the assaults against human rights workers.

On July 21, unknown persons broke into the offices of the National Coordinator for Human Rights (CONADEHGUA) and stole computers and communication equipment, as well as paper files relating to CONADEHGUA's research into the military's budget. The perpetrators left behind surveillance photos taken of CONADEHGUA's director (*see* Section 1.f.).

On September 6, the body of another member of CONAVIGUA was found in Joyabaj, Quiche. The body showed signs of torture (*see* Section 1.c.).

In March the Movement for Human Rights, an organization that unites some 25 human rights NGOs in common initiatives, petitioned President Portillo to bring an end to threats against human rights workers, assure their security, and investigate and dismantle the clandestine groups believed to be behind the intimidation. The Movement met with members of the Cabinet three times. While the Secretary for Strategic Analysis recognized the existence of such groups, the Minister of Interior and the presidential spokesperson publicly dismissed his findings. The Government failed to respond adequately to any of the demands, and the Movement announced it would not meet further until results were produced.

On May 29, the newly appointed Attorney General named Tatiana Morales Special Prosecutor for crimes against human rights workers. However, the office suffers from the same lack of resources the rest of the Ministry faces (*see* Section 1.e.).

The IACHR ordered the Government to provide police protection to the victims in the AVANSCO case and the forensic anthropologists. Although the Government complied, there was no significant progress made in any of the investigations, despite the fact that in some cases the police were given the telephone numbers or license plates of the perpetrators of the threats. In other cases, the Public Ministry claimed that effective investigations could not be carried out because the victims could not provide this information or speculate on the identity of the attackers.

MINUGUA reduced its presence significantly in preparation for a 2004 departure, but continued to monitor implementation of the human rights provisions of the Peace Accords and strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its investigations but cited occasional isolated incidents in which government officials or institutions had obstructed its efforts.

In May Hila Jilani, U.N. Special Rapporteur for Human Rights Defenders, arrived on a fact-finding mission. She noted a climate of fear that terrorized human rights workers. She stated that clandestine groups had become the principal threat to their safety and urged the Government to put an end to impunity and guarantee the protection of human rights workers. She commented on a lack of respect for their work on the part of public officials. President Portillo publicly dismissed Jilani's findings as representing a subjective, personal opinion. During a July visit, Santiago Canton, Executive Secretary of the IACHR and Susana Villagran, IACHR Rapporteur for Guatemala, echoed many of Jilani's concerns, and noted that the IACHR had been presented with more than 130 instances of threats against human rights defenders this year.

In June Congress elected a new Human Rights Ombudsman, Dr. Sergio Morales, from among three candidates chosen by the Congressional Committee on Human Rights. A coalition of more than 70 human rights organizations proposed and endorsed his election, which was considered a victory for civil society. The Ombudsman reports to Congress and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. The budget assigned to the PDH by Congress has historically been inadequate and is less than the amount reserved for the National Soccer Team. Relations between the Human Rights Ombudsman's office and MINUGUA, strained in the past, improved significantly after the start of the Morales' 5-year term in August. Upon the expiration of the MINUGUA's mandate, which is scheduled for 2004, the Human Rights Ombudsman's Office is to assume MINUGUA's human rights verification function.

COPREDEH is charged with formulating and promoting the Government's human rights policy, accepting government responsibility for past human rights abuse cases, and negotiating amicable settlements in those cases before the IACHR. Although some progress was made in completing obligations under prior agreements, such as in the Irma Flaquer case (*see* Section 2.a.), COPREDEH failed, under the conservative leadership of its director, Juan Fuentes Soria, to negotiate any new settlements during the year. In April COPREDEH presented a new executive policy on human rights. Civil society groups criticized the policy for its lack of operational vision and COPREDEH's failure to solicit and incorporate feedback from human rights organizations.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution states that all persons are free and equal in dignity and rights, and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice the Government frequently is unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system (*see* Sections 1.c. and 1.e.).

Societal prejudice against homosexuals was widespread. During the year there were at least five killings of homosexual male sex workers. There were no arrests made in any of the killings, and the police who arrived on the scene abused the victims' companions. Oasis, a support organization for homosexuals, characterized the killings as "social cleansing" and claimed that during the year homosexuals were frequently harassed by the police and often subjected to arbitrary detention (*see* Section 1.a.).

Women.—Violence against women, including domestic violence, remained common among all social classes. The 1996 Law on Domestic Violence provides that the Prosecutor's Office, the national police, family courts, legal clinics, and the Human Rights Ombudsman's Office can receive complaints of domestic violence. Domestic violence is defined as "whatever action or omission by direct or indirect means causes damage, or physical, sexual, psychological, or patrimonial suffering" to a person within the family group. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. Statistics vary significantly. The Prosecutor's Office reported receiving 8,060 complaints of domestic violence against women and children during 2001, 44 percent more than those received in 2000. Only 56 cases were brought to trial with convictions in 38 cases. A study completed in December 2001 by the Andar Foundation found that 77 of every 100 women suffer some form of domestic violence, and that the majority of women are not familiar with the laws that protect them and the institutions that can provide them with assistance. The PDH estimates that for every reported case, there are 10 more that are not reported.

Complaints of spousal abuse continued to rise due, at least in part, to increased nationwide educational programs, which have encouraged women to seek assistance. In 2001 the National Coordinator for the Prevention of Domestic Violence and Violence Against Women (CONAPREVI) released its National Plan for the Prevention of Domestic Violence. In May CONAPREVI reported that the Government had pro-

vided no political or financial support for the implementation of the plan. In June the Network Against Violence Against Women announced that the PDH is the only institution that has adopted a form developed to simplify the process of filing a domestic violence complaint with law enforcement authorities, despite a nationwide promotion effort.

The Law to Prevent and Sanction Intrafamily Violence requires the PNC to intervene in violent situations in the home. In July the press reported that in many cases the police do not respond to calls for help. The Political-Civic Convergence of Women reported that officers who do arrive often chastise female victims for behavior that provokes their husbands' ire. The Program for Prevention and Eradication of Intrafamily Violence, a government program under the Secretariat of Social Work of the First Lady, reported that it receives between 40 and 50 calls a day from battered women and children via its emergency hotline.

The office of the Ombudsman for Indigenous Women, led by Juana Catinac, provides social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It also coordinates and promotes action by both government institutions and NGOs to prevent violence and discrimination against indigenous women; however, it lacks the human resources and logistical capacity to perform its functions on a national level. Since its creation in 1999, the office has been assigned the same budget each year: approximately \$256,000 (1,984,000 quetzals).

Sexual offenses and prostitution continued to increase. The Prosecutor's Office reported receiving 1,550 cases of rape and sexual assault during 2001. A total of 37 cases went to trial, with convictions in 25 cases. In April the Office of Attention to the Victim, a unit within the Public Ministry that offers psychological treatment to individuals who have been sexually abused, reported receiving an average of 67 new cases each month. The penal code does not include a description of sexual assault as a crime.

Victims rarely reported criminal sexual violence, although the number of complaints of such offenses continued to increase significantly. Many observers believed that increases did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward, greater public confidence in the police, and improved record-keeping of crime statistics. Despite these advances, relatively few rape cases went to court, in large part because police have little training or investigative capacity for such crimes, and because many rape victims were reluctant to report and prosecute such crimes. The law allows a rapist to be exonerated when the victim is at least 12 years old and agrees to marry him, but the Public Ministry must approve the marriage when the victim is below the age of 18.

The law does not prohibit sexual harassment, which is common in the workplace. Female domestic and maquila workers are particularly vulnerable (*see* Section 6.e.). In April four female court employees accused Judge Horacio Castillo Ceremeno, president of the Seventh Sentencing Court, of having repeatedly requested sexual favors. On April 13, the Judicial Disciplinary Board recommended that Ceremeno be fired. On July 25, the Judicial Career Council ordered his suspension for 15 days without pay.

Prostitution is not illegal. There are certain health code requirements for persons engaging in prostitution. The number of prostitutes increased during the year. Although no exact figures were available, the Life of Hope Foundation, which works with female prostitutes, estimated that there are 2,000 prostitutes working in the capital alone. Pimping and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women, primarily for the purpose of prostitution, is illegal and a growing problem (*see* Section 6.f.).

The Constitution asserts the principle of equality between the sexes. Nonetheless, in practice women face job discrimination and are less likely to win management positions. The PDH estimates that women generally receive significantly lower pay than men; in many cases one quarter of the salary for the same work. Some women were subjected to preemployment pregnancy tests. Women are employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More women than men are employed in the informal sector of the economy, where pay and benefits generally are lower. Women may own, manage, and inherit property on an equal basis with men.

More than half of indigenous women are illiterate. More than 50 percent of urban girls and 81 percent of rural girls drop out of school. According to the 2000–01 National Survey on Living Conditions, 70 out of every 100 adult women have never received formal education. In a 2001 study of human development, the UNDP re-

ported that overall government spending on women's programs over the previous 3-year period was 0.5 percent of the national budget.

The Secretariat for Women's Affairs operates under the direction of the President, advising him on the coordination of policies affecting women and their development. The Secretariat's National Policy for the Promotion and Development of Guatemalan Women and Plan for Equal Opportunity 2001–06 identified and prioritized areas of critical need for women, such as access to health care and education to protection from domestic violence, but suffered from a lack of resources. During the year, it primarily focused on developing inter-institutional cooperation with existing programs.

In August the first 4 female SAAS civilian security agents graduated among a class of 64. During the year, there were 38 women out of a total of 404 students enrolled in the country's military academy. Ten percent of police officers are female.

Children.—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. However, despite these provisions, the Government does not devote sufficient resources to ensure adequate educational and health services for children. Government spending on health remained stable, at approximately 1.6 percent of the country's GDP, while marginally increased resources were devoted to education, at approximately 2.6 percent.

A 2000 MINUGUA report found that 51 percent of the population is under 18 years of age. Of this group, 83 percent live in poverty.

The Constitution provides for compulsory education for all children up to the sixth grade. However, less than half the population actually receives a primary education, and only 3 of 10 students who begin primary school complete it. According to MINUGUA, one-fourth of all children do not attend school and 63 percent of those are indigenous girls. The average child receives 2.2 years of education. However, among indigenous children, the average drops to 1.3 years. Children in rural and indigenous areas are less likely to complete primary school. The Ministry of Education attempted to improve these statistics during the year by granting special scholarships to girls and working or orphaned children.

In December 2001, the Ministry reported that the overall level of school attendance had increased from 30 percent to 44 percent. On August 7, the Center for National Economic Investigation (CIEN) released a report on the progress of educational reform. The report recognized the Ministry's attempt to increase the number of children enrolled in primary school and promoted to middle school, but noted that dropout rates had increased; the high rate of illiteracy among women remained unchanged; and a very low percentage of resources was assigned to post-primary levels.

Since August 2001, a country-wide hunger crisis brought on by drought, the fall in coffee prices, and an overall lack of economic development claimed the lives of more than 100 children. An emergency census completed by UNICEF in 2001 reported that 14 percent of children suffered from acute and 71 percent from chronic malnutrition. Public health analyses showed that 60 percent of the cases of infant mortality and 76 percent of the cases of maternal mortality were preventable through attention to basic health and environmental measures that have been neglected. The Peace Accords, recognizing the systematic violation of children's right to health, called for a 50 percent reduction in infant and maternal mortality and a 50 percent increase in public health spending. Health coverage has increased since the signing of the Accords, but government commitments have begun to taper off. Approximately 1,340,000 women and children did not have access to basic health services during the year. Government resources devoted to public health decreased during the year. During the year, 7 percent of the National Budget was devoted to the health sector, compared with 10 percent in 2001.

Most estimates indicated that reports of child abuse continue to increase, although there are few statistics available to measure the problem. The Public Ministry reported 1,267 cases of child abuse in 2001, as compared to 1,126 cases in 2000. The majority of victims were between the ages of 2 and 10. A Permanent Commission for Children and Youth investigates cases of child abuse. The Social Secretariat for the Welfare of Children has oversight for the children's welfare programs, treatment and training for children, and special education assistance for children. The Secretariat provides shelter and assistance to children who are victims of abuse. However, due to lack of resources, these children sometimes are placed with other youths who have committed crimes (*see* Section 1.c.). In July the Minor's Court inaugurated the first educational program for parents whose children have been placed under protective status by the court in cases of parental abuse. The free, 4-month program offers training in human rights, self-esteem, drug abuse prevention, and domestic and sexual abuse. Thirty parents registered for the first ses-

sion, and the court plans to offer the program on a year-round basis beginning in January 2003.

On February 8, the courts convicted prominent businessman Alfonso Iburguen of multiple counts of rape of two girls in 1999, then aged 6 and 9, and sentenced him to 40 years' imprisonment. Marco Veliz, the children's stepfather, who delivered the children to Iburguen in exchange for cash payments, was sentenced to 109 years. The two men were ordered to pay the victims a total of approximately \$320,000 (2.5 million quetzals). During the investigation and trial, Veliz and Iburguen threatened the children's mother on several occasions, and she fled the country upon conclusion of the case.

On August 20, the outgoing Human Rights Ombudsman censured three priests who were accused of sexually abusing four children. The Catholic Church announced its intention to form a commission to investigate the incidents.

On April 5, authorities intercepted 7 public transport buses with 53 Salvadoran children who were being illegally smuggled to the United States. The authorities eventually assisted with an international operation that successfully broke up a smuggling ring originating in El Salvador.

Child labor is a problem. UNICEF estimates that 34 percent of all children work. The Government defines the "economically active population" as beginning at age six. In 2001 the Government initiated a program to eliminate the worst forms of child labor; however, the problem persists (*see* Section 6.d.).

The internal conflict left approximately 200,000 orphans throughout the country. Approximately 10,000 children are members of street gangs. Credible estimates put the number of street children at 6,500 nationwide, with about 4,000 of these youths concentrated in Guatemala City. More than 450 children have disappeared since 1996.

Abuse of street children remained a serious problem (*see* Section 1.c.). Casa Alianza estimated that the average age of a street child has dropped over the last 10 years from 13 years of age to 7. The average life expectancy of a street child is 30 years. The majority of street children ran away from home after being abused. Criminals—reported to include private security guards and corrupt police or military personnel—often recruited these children into thievery or prostitution and drug rings. In February Casa Alianza reported that between 1990 and 2001, an average of five street children were murdered each year. There has been little or no investigation in 80 percent of the cases. Individuals, private security guards, and other street children—not police or other government forces—committed most violence against street children. On June 20, unknown individuals shot and killed three children and wounded three others who were sleeping on a corner. On August 15, two men threw rocks at a street child who was sleeping on the roof of a market stall, crushing her skull. Social cleansing was a possible motive (*see* Section 1.a.). No arrests were made. On May 16, the Protection of Children and Youth Forum launched a public awareness campaign aimed at educating the populace about the societal ills that contribute to the problem of street children.

The Government and a number of NGOs operate youth centers; however, the funds devoted to them are not sufficient to alleviate the problem. The Government maintains one shelter each for girls and boys in Guatemala City. These shelters provide housing for the homeless and incarceration for juvenile offenders.

In February the U.N. Special Rapporteur on Children in Armed Conflicts, Olara Otunnu, expressed concern over the low level of state resources devoted to education, health, and nutrition for children. Otunnu also urged stronger government participation in the National Commission for the Search for Disappeared Children (*see* Section 1.b.).

On May 16, the Constitutional Court ordered Congress to set a date for the new Minor's Code to take effect. Casa Alianza and members of the Movement for Children had filed an injunction questioning the constitutionality of the February 2000 Congressional suspension of the implementation of the code. Congress, arguing that time was needed to develop the infrastructure for implementation, set an implementation date of December 1, 2003.

Persons with Disabilities.—The Constitution provides that the State should protect persons with disabilities; however, persons with physical disabilities suffer discrimination in education and employment practices, and few resources are devoted to combat this problem. The PDH estimated that the disabled population is 1.7 million. These individuals have limited access to health care, recreational facilities, and work opportunities. Educational resources for those with special needs are scarce and the majority of the universities are not handicapped accessible. The National Hospital for Mental Health, the dominant health care provider for persons with mental illness, lacks basic supplies and equipment. Patients suffer from unhygienic living conditions and a shortage of medical professionals. Reports of sexual abuse

by the staff are common. In June the press reported that only 30 percent of disabled children receive support from the Ministry of Education, which employs 150 teachers trained to work with the 4,500 children with disabilities who are registered in public schools. During the year, the Education Ministry began a public awareness program in public schools to overcome teachers' resistance to attendance by disabled students.

In 1996 Congress passed the Law for Protection of the Elderly and the Law on Attention to Disabled Persons, which mandates equal access to public facilities, prohibits discrimination based on disability, and provides other legal protections. The law defines a person with disabilities as one whose physical, mental, or emotional deficiencies limit performance of normal activities. It stipulates equal opportunity for persons with disabilities in health, education, work, recreation, sports, and cultural activities. It also provides that all persons with disabilities receive the benefits of labor laws and social security and have the right to work. In addition, the law establishes equal educational opportunities, the requirement that buildings meet access codes, and the right to equal pay. Government efforts to implement the legislation have been weak. While the National Council for the Disabled (CONADI), composed of representatives of concerned government ministries and agencies, met regularly to discuss initiatives, no resources have been devoted to the implementation of their recommendations. CONADI's petition for a permanent budgetary allocation from the Government was rejected. CONADI organized protests to demand that the Government follow through on its commitments to provide access to public institutions, spaces, and transit.

Indigenous Persons.—The Constitution states that the country is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, social organization, and manner of dress of indigenous people.

Indigenous people constitute more than half the population; however, they remain largely outside the country's political, economic, social, and cultural mainstream. A 2000 U.N. report stated that 73 percent of indigenous persons, and 72 percent of those living in rural areas, faced an institutional lack of economic possibilities and limited access to basic services. According to UNDP, 90 percent of the indigenous are poor. The 1994 census, the most recent, found that 43 percent of the population is indigenous. However, most observers believe that this figure is low, and that indigenous people constitute a majority of the population. There is no single indicator of indigenous status, and there are at least 22 separate Mayan ethnic groups, each with its own language. In addition to the indigenous Mayan groups, there is an indigenous Xinca community of some 6,000 persons. The Garifuna, descendants of Africans brought to the Caribbean region as slaves who later migrated to South and Central America, are a separate minority group.

In 2000 when the Government designed a new 2000–04 timetable for the implementation of the Peace Accords, it was clear that the majority of the provisions regarding indigenous rights were incomplete. Among the initiatives still pending are educational reforms that include bilingual and intercultural components, promotion of the use of indigenous languages, and the conservation and protection of ceremonial sites. On April 3, MINUGUA released a public statement lamenting the minimal advancement in the implementation of the Accord on Indigenous Rights 7 years after its signing.

Indigenous people were the most frequent victims of extrajudicial killings and other serious human rights abuses during the internal conflict. The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites. Indigenous people continued to organize themselves into interest groups to promote bilingual education, women's rights, and community development. Politically, the indigenous groups remained disunited, and there was little agreement among the groups on common goals or strategies to increase their political representation and power.

Rural indigenous people have limited educational opportunities and fewer employment opportunities. For this reason, indigenous men constitute a very high percentage of the military's ranks. Many indigenous people are illiterate or do not speak Spanish. A disproportionate number of indigenous girls do not attend school. The Government has devoted few resources to bilingual education, and the Ministry of Education has yet to implement the recommendations made by the Commission on Educational Reform. CIEN noted in its annual report on educational reform that some 900,000 children between the ages of 6 and 12 speak an indigenous language. Nevertheless, only 22 percent of this population received bilingual instruction. Only 12 percent of all teachers are bilingual. Since 1999 there have been no reports of

schools denying children the right to wear traditional indigenous dress, a common complaint under the previous administration. However, on June 5, an indigenous leader was denied entrance to a restaurant in Guatemala City because she was wearing traditional dress. The owner of the establishment made a public apology and fired the offending employee, but indigenous groups cited the case as an example of the discrimination the indigenous face daily. The victim announced her intent to submit the case for consideration to the IACHR as an example of the historical, institutional, and structured racism that exists in the country. The Human Rights Ombudsman issued a moral condemnation to the restaurant's owner and recommended that Congress promote laws prohibiting and punishing all forms of discrimination.

Indigenous people arrested for crimes often are at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings. Despite this, reports continued that indigenous people did not have equal access to the justice system. The Public Ministry concentrated 18 interpreters in former conflict areas of the country, and the Public Defender's Office employed 6 bilingual public defenders and assigned them to areas where they could serve as translators in addition to defending their clients. The Government made efforts to recruit justices of the peace who are bilingual in Spanish and an indigenous language. However, in 561 tribunals around the country there are only 62 judges who speak Mayan languages, and 22 court interpreters. Only 14 percent of police officers are indigenous. Better efforts were made to assign these officers to towns where their language skills can be put to use. Approximately 75 percent work in the geographic area of their particular linguistic competency.

In his December 2001 report, the U.N. Special Rapporteur on the Independence of Judges and Lawyers noted that access to justice for the indigenous community is "seriously defective" (see Section 1.d.). He specifically recommended that the Government take steps to incorporate indigenous custom and practice into national laws. On August 8, the Attorney General signed an accord promising to improve access to the justice system for the indigenous. Among the initiatives was the establishment of a Special Prosecutor for Indigenous Peoples to focus on cases of discrimination.

In July more than 25 representatives from civil society formed the National Roundtable Against Racism with the purpose of fostering an open, public debate on the problem and to seek solutions. Also in July, Mayan Defense, an NGO, began a 3-year education campaign to combat racism and discrimination. Again in July, various indigenous women leaders demanded the cancellation of the Rabin Ajau, an annual beauty contest among indigenous women that has taken place for 33 years and that receives government support. Previous participants and winners of the contest took part in the protest, explaining that the event had no roots in Mayan culture and that contestants were humiliated and prevented from speaking freely during the pageant.

In May the U.N. Special Rapporteur on Human Rights Defenders visited and expressed her concern over the increasing vulnerability of indigenous leaders to attacks (see Section 4). In September the U.N. Special Rapporteur for Indigenous Rights visited and commented that racism in country is "latent". On July 29 and 30, Pope John Paul II visited the country. In his public remarks, he lamented the situation of the indigenous and affirmed their right to respect, justice, and peace.

On October 3, the Government settled the century-old Los Cimientos land dispute. The Quiche community was relocated to a farm in Escuintla with \$3 million (23,250,000 quetzals) from the Presidential Secretariat for Agrarian Affairs. This resolution took place over a year after the Quiches had been forced out of Los Cimientos and into refugee camps in June 2001 by ex-civilian patrollers from their rival indigenous group.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide workers with freedom of association and the right to form and join trade unions. However, in practice the Government does not enforce effectively labor laws to protect workers who exercise their rights. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces. Approximately 3 percent of the work force is unionized. The Government does not control unions. There is no state interference in union activities; however, some believe internal intelligence services may monitor the activities of some politically active union leaders. In 2001 the Congress passed two sets of reforms to the national Labor Code that an International Labor Organization (ILO) direct contact mission noted "constitute a significant step forward in the application of Conven-

tions Nos. 87 (freedom of association) and 98 (right to organize and bargain collectively), in that they repeal or amend many of the provisions criticized by the Committee of Experts." The reforms redefined the mission of the Labor Ministry from exercising "strict oversight to ensure unions operate legally" to guaranteeing "the free exercise of union rights." The reforms also permitted industrial or sectoral unions. Legal recognition of a new industrial union now requires that the membership constitute one-half plus one of the workers in an industry. Labor activists consider this requirement a virtually insurmountable barrier to the formation of new industrial unions.

The 2001 reforms accord initial jurisdiction over labor law violations to the Labor Ministry and set forth procedures for processing complaints, making initial determinations, and fining violators—new enforcement powers previously reserved to the labor courts. The Ministry of Labor may levy substantial fines for violations of labor rights; the Ministry claims to have levied more fines since May 2001 than the labor courts have collected in the 50 years of their existence. However, individual fines are generally low because companies can challenge Ministry fines in the labor courts. The labor inspection system remains ineffective and corrupt, despite continuing efforts at improvement. Low pay, the lack of a strong ethic of public service, and ineffective management prevent the Ministry from providing effective service.

Retaliation, including firing, intimidation, and sometimes violence, by employers and others against workers who try to exercise internationally recognized labor rights is common and usually goes unsanctioned. The ILO's Committee on Freedom of Association continues to monitor about a dozen allegations of serious violence between 1995 and 2000 against individuals for unionizing activities that lack credible investigations, prosecutions, or trials. In April 2001, an ILO Direct Contact Mission visited to investigate lack of progress in those investigations. In June 2001, the Public Ministry assigned a Special Prosecutor for Crimes Against Unionists and Journalists to review these and all new cases involving union members. Since its inception, the Special Prosecutor's Office accepted 80 cases involving union members, 31 of which remained under investigation at year's end. Only two suspects have been brought before a judge and one person has been detained. The remainder of the cases were found to be without merit by judges or by the Prosecutor's Office. Arrest warrants have been issued in only two cases. In October MINUGUA reported that labor leaders and unions had received 288 threats against them from January 1, 2000-September 15, including 158 death threats; 4 killings of unionists were registered during that period. Another such killing occurred in November.

The most common violation of freedom of association is the dismissal of workers for unionizing activity. Some workers who suffer illegal dismissal take their case to the labor courts and win injunctions of reinstatement. Appeals and re-appeals by the employers, along with legal ploys such as re-incorporation as a different entity, often prolong proceedings for years. The labor courts generally do not dismiss frivolous appeals, nor are their decisions enforced. According to Labor Ministry officials, the labor courts vindicate the majority of workers' claims against employers. However, employers comply with the court decisions in only a small number of cases, creating a climate of impunity. Often employers are not disciplined for not complying with legally binding court orders.

For example, in 1998 foreign firms contracted with DYMEL, S.A. to build a coal-fired power plant near San Jose, Escuintla. During construction of the plant, DYMEL's workers, most contracted for the duration of the construction phase of the project, formed a union. DYMEL then fired 72 union organizers without required court permission. The workers went to court and won a judgment reinstating them with back pay. After appeals by DYMEL, the verdict was upheld by the Constitutional Court in May 2001. Meanwhile, DYMEL had completed the project, reorganized to shelter itself from claims, and moved assets and operations to El Salvador. The workers began a sit-in on the doorstep of the presidential offices in late November 2001. In October the workers and DYMEL negotiated a financial settlement of worker claims. On October 7, 71 workers received a monetary reward to cover back wages and lawyers' fees.

Throughout the economy, employees were reluctant to exercise their right of association for fear of reprisal by employers. Workers had little confidence that the responsible executive and judicial institutions would effectively protect or defend their rights if violated. In addition, the weakness of labor inspectors, the failures of the judicial system, poverty, the legacy of violent repression of labor activists during the internal conflict, the climate of impunity, and the deep-seated hostility of the business establishment toward independent and self-governing labor associations constrained the exercise of worker rights. In 1999 MINUGUA's Fourth report on the Peace Process noted that "genuine trade union freedom does not exist" due to anti-union violence. It also reported a significant gap between the problems regarding

workers' rights and the resources applied by the Government to solving these problems.

Nobody has been charged for the December 2001 murder of Baudilio Cermeno Ramirez, the Organization Secretary of the Light and Energy Union.

Investigation of the 2000 killing of Oswaldo Monzon Lima, the secretary general of a fuel drivers' union, continues without results.

Labor leaders reported receiving death threats and other acts of intimidation. In its September report on human rights, MINUGUA reported threats to the head of the immigration workers' union and the UNSITRAGUA labor federation, as well as the attempted shooting of the leader of the municipal workers union of Nueva Concepcion, Escuintla. On November 27, the bodies of Carlos Francisco Guzman Lanuza, the Secretary General of the Municipal Employees Union of Nueva Concepcion and leader of a union of South Coast workers, and his brother were discovered on a highway near Nueva Concepcion, Escuintla province. They died from multiple bullet wounds. According to MINUGUA, since 2001 Nueva Concepcion had been plagued by violence from armed groups associated with the mayor, Augusto Linares Arana. The investigation of the case by the Special Prosecutor for Crimes Against Unionists had produced no arrests at year's end. The General Central Union of Guatemalan Workers (CGTG) described death threats and other forms of intimidation received by a member of the municipal union of Chichicastenango, another member of commercial workers' union of Chichicastenango (both from municipal officials), by two leaders of the Professional Heavy Truckers Union, and by the leader of the municipal union of Puerto Barrios. On May 13, the adult son of the leader of the National Federation of Public Servants (FENASEP) was killed in the capital. The CGTG claims that none of these acts has been investigated adequately.

An active "solidarismo" movement claims to have approximately 170,000 members in about 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between the two or to belong to both. The Government views these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers. However, unions charge that management promotes solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticize these associations for not permitting strikes, having inadequate grievance procedures, and for displacing genuine, independent trade unions with an employer-dominated structure. There were credible reports that some associations did not adhere to democratic principles.

The administrative process for unions to obtain legal status has been simplified over the past decade. In 1996 the Ministry of Labor reduced the number of steps needed to adjudicate union applications and mandated a deadline of 20 workdays for reaching a decision. Labor Code reforms adopted in 2001 authorized the Labor Ministry to establish a free legal assistance service for workers who desire to unionize, contained provisions designed to simplify further the Ministry's application and recognition process, and strengthened union members' ability to demand transparency in union activities. In 2001, the last year for which complete official data is available, the Labor Ministry granted legal status to 48 unions. At the end of 2001, there were 1,481 registered unions (742 considered "active"), with 119,471 members. Unofficial sources claim that by mid-year, that number had increased to 1,506 registered unions with 120,953 members.

The registered unions were generally independent of government and political party domination.

The two unions at the Choi Shin/Cimatextiles maquila plants where anti-union violence occurred in July 2001 have not been able to achieve membership of 25 percent of workers to compel collective bargaining. During the year, management claimed to have instituted voluntarily a process of regular dialogue with the unions to prevent further conflicts.

Many violations of the right of association and other labor rights occurred in the public sector. In September 2001, MINUGUA highlighted cases of intimidation, threats, and illegal firings of municipal workers by public officials in Cuilapa, Santa Rosa; Guastatoya, El Progreso; Tecpan, Chimaltenango; and La Gomera, Escuintla. In addition, the management of Ministry of Health hospitals in the capital and in Cuilapa, Santa Rosa refused to recognize union leaders or tried to replace them with others, and the Ministry had not complied with terms of a collective bargaining agreement negotiated by the previous administration. In its September human rights report, MINUGUA verified anti-union practices within the Office of the Comptroller General, who spoke openly of his intention to dismantle two unions. In August doctors in the major public hospital in the capital stopped work and forced the Social Security Institute to agree to pay back wages with increases.

The Labor Code provides for the right of employers to fire union workers for cause, permits workers to appeal their dismissal to the labor courts, and requires the reinstatement within 24 hours of any unionized worker fired without cause. The Labor Code also prohibits employers from firing any member of the executive committee of a union and also protects them for 12 months after their terms end. An employer may fire a member of the union's executive committee for cause only after a trial in a labor court and issuance of a court resolution. Even in clear-cut cases of illegal firings, labor laws have not been enforced adequately.

Despite governmental, bilateral, and multilateral efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts; 7 in the capital and 13 located elsewhere around the country. An additional nine courts address labor issues, primarily appeals, as part of their jurisdiction. The weakness of the judicial system as a whole, the severe shortage of competent judges and staff, a heavy backlog of undecided cases, and failure to enforce effectively court rulings all contribute to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors and the lack of training and resources devoted to detecting and investigating Labor Code violations compound the weakness of the labor courts. UNICEF, the ILO, and MINUGUA continue to urge the Government to speed up the administration of justice to ensure the strict enforcement of labor laws. In 2001 MINUGUA singled out the Third Judge for Labor for egregious delays in legal procedures stemming from a dispute involving a bank workers union dating to 1997. The judge took more than 3 years to convoke the parties before a conciliation tribunal, which should have taken place within 36 hours.

Government efforts to improve the labor inspection system, begun in 2000, continued with international support. After substantially expanding the size of the inspector corps in 2000, the Ministry of Labor increased its rate of inspections and fired some incompetent or corrupt inspectors. The Ministry also launched with MINUGUA assistance a permanent training program for inspectors, created new individual performance indicators for inspectors, began to computerize inspection reports, cooperated with an ILO study on inspection norms, and enlisted union and employer support for the creation of national and departmental consultative councils to discuss Labor Inspectorate operations.

Under the revised Labor Code, complaints can be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry also instituted a set of complaint assistance, small claims mediation, and information-providing initiatives designed to provide better services to workers. The Ministry continued its educational campaign on worker rights (especially the rights of minors and women), which included a campaign of radio spots and the provision of some educational materials in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Seven of the Ministry's offices have been accorded regional authority. These regional offices, in addition to labor inspectors, also include specialists in women and workplace issues, management-worker relations/conflict resolution, and minor workers/child labor issues. The Labor Ministry plans to give these regional offices supervisory authority over branch offices in the departmental capitals of each region.

MINUGUA and the Human Rights Ombudsman's office of the Defender of Worker Rights take complaints related to violation of internationally recognized worker rights. The Human Rights Ombudsman's Office can investigate union complaints and issue a statement; however, the office has no enforcement powers beyond attempting to resolve the situation through publicity and persuasion. The Ombudsman made public statements about labor conditions in various sectors of the economy.

Unions may and do form federations and confederations and affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively. However, the small number of unionized workers limits the practice of collective bargaining. The prevailing business culture ignores labor contracts because, in practice, they are largely unenforceable due to the weak, cumbersome, and corrupt legal system. Labor Code reforms adopted in 2001 reduced from two-thirds to one-half plus one the number of union members required to approve a collective bargaining agreement. The ILO Committee of Experts had called for this change. The ILO also noted other reforms necessary to provide for full exercise of the right to organize and bargain collectively.

Other factors limiting the practice of collective bargaining include the requirement that 25 percent of the workers in a factory or business must be union members for collective bargaining to take place, lack of experience, and management's

aversion to sharing power with workers. Management and labor honored collective contracts at some firms. In others, management, and sometimes labor, chose to ignore selected provisions of binding collective bargaining agreements. According to the Ministry of Labor, 22 collective bargaining agreements were registered in 2001. A total of 144 agreements were reached between 1997–2001, according to the most recent official data. The greatest number of agreements were reached in the social services (44) and industrial manufacturing (43) sectors. Most workers, even those organized in trade unions, do not have collective contracts documenting their wages and working conditions, nor do they have individual contracts as required by law. According to a 2000 study by the Association for Research and Social Studies, only 10 percent of workers have a contract duly registered with the Labor Ministry as required by law.

A February government decree prohibits the executive branch from allowing any salary or other monetary benefits to increase under any collective bargaining agreement. Labor groups have criticized this policy and vowed to challenge its constitutionality under ILO Convention 98.

The Labor Ministry has worked to promote the restructuring of labor relations in enterprises by encouraging labor-management cooperation and to bring about a “culture of negotiation” as called for by the Peace Accord on Socioeconomic Aspects and the Agrarian Situation. Despite these efforts, productive, good faith negotiations between employer and worker representatives have been the exception rather than the rule. The majority of unions that engaged in collective bargaining during the year reported that some employers continued to reject the underlying premise of collective bargaining—that power in the workplace can be shared according to a contract between the employees and company management for the benefit of both.

The law protects workers from retribution for forming unions and for participating in trade union activities, but enforcement of these provisions is weak. Many employers routinely seek to circumvent Labor Code provisions to resist unionization. An ineffective legal system and inadequate penalties for violations have hindered enforcement of the right to form unions and participate in trade union activities in the past and perpetuates the violence that workers face if they attempt to exercise their rights.

The Labor Code prohibits employers from firing workers for union organizing and protects them from being fired for 60 days following notification to the Labor Ministry that a union is being formed. Thereafter, they can be fired for cause, unless they are members of the union’s executive committee. During labor conflicts, unions frequently seek a labor court injunction, which prohibits firing without approval of a judge until the conflict is resolved (277 such injunctions were filed in 2000, according to the most recent official data). Although the Labor Code provides that workers fired illegally for union activity should be reinstated within 24 hours, in practice employers have filed a series of appeals or simply defied judicial orders for reinstatement. The Labor Code reforms adopted in 2001 significantly increased by 10 to 50 times the minimum monthly wage-penalties for defying such orders. However, effective utilization of these enhanced enforcement powers of the Ministry of Labor has proved difficult. The Labor Ministry, and its corps of labor inspectors in particular, continues to suffer from a lack of respect from employers, inadequate resources, and corruption (*see* Section 6.a.). The Labor Ministry reported issuing 4000 fines to 202 employers, totaling \$70,279 (544,665 quetzals). According to the Ministry, this total of fines on employers amounts to ten times what the labor courts had issued in the past 50 years of their existence. An additional 3,798 additional cases were being processed at year’s end.

During the year, routine labor inspections increased to 24,632, from 20,613 in 2001. Inspections based on a specific complaint reached 4,820.

Workers have the right to strike. However, the very low level of unionization and procedural hurdles make legal strikes rare. The reforms adopted in 2001 rescinded the provision—long noted by the ILO as an unwarranted constraint on the right of association—that prohibited seasonal agricultural workers from striking during harvest time. The 2001 Labor Code reforms also reduced from two-thirds to one-half plus one the number of a firm’s workers required to call a legal strike. The Labor Code requires that a labor court consider whether workers are conducting themselves peacefully and have exhausted available mediation before ruling on the legality of a strike. The 2001 Labor Code reforms created new procedures that workers in essential services (health, utility, and communications) must follow to exercise legally the right to strike; however, other changes in the Labor Code gave the President and his cabinet the power to suspend any strike deemed “gravely prejudicial to the country’s essential activities and public services.” Employers may suspend or fire workers for absence without leave if authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if no agreement is

reached after 30 days of negotiation. For a strike to be declared, a workplace election must be held, and 50 percent plus 1 person present, including workers and management, must vote in favor of the strike. The union then must petition a labor court for permission to strike. The judge calls the petitioners and employer representatives before the court and forms a Conciliation Tribunal to seek resolution of the conflict. If no agreement is reached, the parties can go to binding arbitration, or the judge may rule on the legality of the strike. In practice, this can be a lengthy process, and few requests for strikes are upheld.

There was one legal strike during the year. On July 5, the union of municipal workers of Jalapa went on strike for 15 days. They returned to work after the mayor pledged to honor union demands. Other unofficial work stoppages were held by labor groups in the banana sector, health sector, and others throughout the year. Landless peasant groups blocked national roads to press the national government for more attention to their demands for land.

Labor laws and regulations apply throughout the country, including the few export processing zones (EPZs). (Maquilas that make garments for export operate under an EPZ-like regime, although they are not located in distinctly established areas.) The laws governing the EPZs do not infringe on fundamental rights to organize trade unions or bargain collectively. However, there are no collective bargaining agreements between employers and any of the more 100,000 workers in the for-export zones and maquila sector. Union leaders' inability to organize workers in these zones is caused by employer intimidation and pressure as well as unofficial restrictions on their access to the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Constitution bars forced or bonded labor; however, women are trafficked for the purpose of sexual exploitation (see Section 6.f.). Trade union leaders and human rights groups charge that employers sometimes forced workers to work overtime, often without premium pay (see Section 6.e.). The law does not specifically prohibit forced or bonded labor by children; however, they are covered by the general constitutional provision. Forced or bonded labor by children generally did not occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. However, the informal and agricultural sectors regularly employ younger children, usually in small family enterprises. Economic necessity forces most families to have their children seek some type of employment to supplement family income, especially in rural and indigenous communities. In 2000 MINUGUA found that 34 percent of children 7 to 14 years of age work. Most minors work at household chores, in subsistence agriculture, in family-run enterprises, and elsewhere in the informal economy.

According to a special survey by the National Statistics Institute completed in 1999, from 1998 to 1999 there were 326,095 children doing paid work, and 495,780 doing chores in the home. An estimated 80 percent of work accidents involve 15-to-18-year-old workers who lack proper safety training. The law prohibits minors from night work and extra hours (the legal workday for minors younger than 14 is 6 hours; for minors 14 to 17 years of age, it is 7 hours); from work in establishments where alcoholic beverages are served; and from work in unhealthy or dangerous conditions.

The ILO's International Program on the Elimination of Child Labor is active in the fireworks industry and opened a pilot facility for safe production of fireworks without child labor in July. The Labor Ministry estimated that approximately 10 percent of the children in this industry work illegally in factories, while younger children, under the age of 14, typically work at home on piecework taken in by their families. Accidents occur regularly in the informal cottage fireworks industry. According to press reports an average of 25 persons per year, the majority minors, suffer burns and amputations from accidents in the fabrication of fireworks. Between 3,000 and 5,000 children were employed in the illegal cottage-based fireworks industry.

The ILO also sponsors programs to eliminate child labor in the production of gravel and certain agricultural sectors.

Laws governing the employment of minors are not enforced effectively, due to the weakness of the labor inspection and labor court systems. The Association for Girls and Boys in Central America estimates that approximately 2 million children work in the region. The majority of child laborers work in agriculture (family farms, coffee, and sugar cane harvesting), while others work in domestic service, construction, family businesses, stone quarrying, rock-breaking, fireworks manufacturing, shining shoes, begging, performing in the streets, or other jobs. In 2001 the Ministry approved 1,014 permits for minors under 14-years-old. Many children under the age

of 14 work without legal permission and are vulnerable to exploitation. Their illegal status makes them ineligible to receive social benefits, social insurance, vacations, or severance pay, and they often earn salaries below the minimum wage.

In October the ILO reported that the number of child workers has increased to 937,530, and that 38,878 of those are under 18 years of age and working as domestics in private homes in conditions of modern slavery. The ILO report studied 150 child domestic workers in Guatemala City and 100 in the southeastern city of Jutiapa. Forty-five percent of those interviewed were between 6 and 13 years old. The report asserts that the total number of child and adolescent domestic workers in the provinces of Guatemala and Jutiapa totals 10,433, the overwhelming majority of whom (10,144) are female. In the capital, the majority of children (74 of 100) worked 13 to 16 hours a day, and their average monthly salary is approximately \$51 (395 quetzals). Monthly wages were even lower in Jutiapa, where 60 percent of those interviewed worked less than 6 hours per day; however, they work for more than 1 household. Many suffered psychological mistreatment, including sexual abuse.

In May the ILO released a report entitled "Child Labor in Garbage Dumps: A Rapid Evaluation." The report is the result of 167 interviews with garbage pickers in the capital. Seventy percent of those interviewed were between 7–18 years old. More than half of those interviewed under 13 years old do not attend school. The figure was higher (74 percent) for those between 14–18 years old. Eight percent of those interviewed lived on the dump, and 32 percent lived nearby. The child workers suffer a variety of physical maladies associated with their work.

The Child Worker Protection Unit within the Ministry of Labor enforces restrictions on child labor and educates minors, their parents, and employers on the rights of minors in the labor market. In 2000 the Ministry of Labor, with the support of a group of NGOs, finalized a National Plan for the Prevention and Eradication of Child Labor and Protection of Adolescent Workers, which was approved by the Cabinet in 2001. In 2001 the Ministry launched a national campaign to eliminate the worst forms of child labor, and in November President Portillo announced the creation of a new National Commission for the Elimination of Child Labor which will coordinate ministerial collaboration on implementation of the National Plan to Eradicate Child Labor.

The labor law does not specifically prohibit bonded labor by children; however, the Constitution prohibits forced or compulsory labor. Bonded labor by children generally did not occur; however, children were trafficked into prostitution (*see* Section 6.f.).

e. Acceptable Conditions of Work.—Although the law sets minimum wages, non-compliance with minimum wage provisions in the rural and informal sectors is widespread. A May 2001 government survey of employment and income revealed that only 60 percent of the working population received the minimum wage or more. As minimum wage provisions have become more complex through inclusion of a monthly "incentive bonus", and as the minimum wage has risen during the year and with a deepening economic crisis affecting the coffee-growing sector, non-compliance with the law, which was already high, has risen. Advocacy groups that focus on rural sector issues estimate that more than half of workers engaged in day-long employment in the rural sector do not receive the wages, benefits, and social security allocations required by law. Minimum wage laws do not extend to domestic workers.

The Ministry of Labor oversees a tripartite committee that makes recommendations for increases in the minimum wage. In the event that agreement is not reached in the tripartite commission, the Government may decree such increases based on recommendations of the Labor Minister. The 2000 Labor Code reforms placed responsibility for drafting the decrees setting new minimum wage levels, should there be no consensual proposal submitted by the tripartite commission, on the Labor Ministry. On January 1, a minimum wage increase, promulgated by executive branch decree after the tripartite commission was unable to reach a consensus, took effect. This decree raised the minimum daily wage for agricultural work by \$0.31 (2.42 quetzals) to \$3.52 (27.50 quetzals). It raised the minimum daily wage for service, industrial, and government sector work by \$0.29 (2.33 quetzals) to \$3.85 (30.00 quetzals). In August 2001, the Government decreed a mandatory monthly bonus for all workers of \$31.25 (250 quetzals) from a previous level of \$20.20 (162 quetzals) for agricultural workers and \$19.30 (154 quetzals) for non-agricultural workers.

The minimum wage was not sufficient to provide a decent standard of living for a worker and family. According to the UNDP, at least 80 percent of the population, including approximately 60 percent of working population, lives below the poverty line. The Ministry of Labor conducts inspections to monitor compliance with min-

imum wage provisions; however, the Ministry of Labor lacks the resources to enforce adequately the minimum wage law.

An estimated 70 percent of workers are in the informal sector, and are therefore completely without labor protections. Only 21 percent of workers were covered by the National Social Security System (IGSS) in 2000, according to the Labor Ministry.

The legal workday is 8 hours and the workweek is 44 hours; a tradition of longer hours remains in place in certain sectors. These limits do not apply to domestic workers. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charge that employers sometimes forced workers to work overtime, often without premium pay. Labor inspectors report uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system and enforcement of court orders, have inhibited adequate enforcement of the law.

Occupational health and safety standards are inadequate. During the year, as part of its effort to address this situation, the Ministry of Labor participated in a number of regional international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. The Labor Ministry provides training courses for labor inspectors in health and safety standards, and has given such training priority despite scarce resources. In August the Minister unveiled a National Plan for Occupational Health and Safety developed through tripartite participation.

Nevertheless, enforcement of occupational health and safety standards remains weak. When serious or fatal industrial accidents occur, the authorities often fail to investigate fully or assign responsibility for negligence. Employers rarely are sanctioned for having failed to provide a safe workplace. However, in the past, the authorities suspended one maquila operation for safety shortcomings and threatened about a dozen others with a suspension of operations if they failed to improve safety conditions. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers has not been well enforced. However, most large employers did provide such facilities for their employees. The fireworks industry is particularly hazardous (*see* Section 6.b.). Workers have the legal right to remove themselves from dangerous work situations without reprisal. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions.

A January report by the Women's Rights Division of HRW alleged that women workers, especially in the domestic and maquila for-export manufacturing sector, suffer from high rates of discrimination and sexual harassment. One-third of a sample of 29 domestic workers reported sexual harassment at work, according to the report. Labor law exempts domestic workers from the right to an 8-hour workday and the 44-hour workweek, provides domestics only limited rights to national holidays and weekly rest, and denies domestics the right to employee health care under the national social security system. While the labor code stipulates that all workers have the right to the minimum wage, domestic workers are denied this right by executive decree.

The report alleged that maquilas often force women to reveal whether they are pregnant as a condition of employment, either through questions on job applications, in interviews, or through physical examinations. Approximately 80 percent of the 100,000 maquila workers are women.

f. Trafficking in Persons.—The law specifically prohibits trafficking and smuggling of persons; however, trafficking in women and children is a problem. The country is a source and transit country of women and children trafficked for the purpose of sexual exploitation. There is also internal trafficking and in some cases, the country is a destination country for trafficked victims. Trafficked persons come mainly from other Central American countries and Ecuador. Victims trafficked to Guatemala are usually young women or children who are trafficked for sexual exploitation. Most of the minors brought to the country are trafficked for sexual exploitation and placed in poor surroundings and paid low salaries. A 1999 study by the NGO Pro-niños, Niños Centro Americanos (PRONICE) suggests that fraud and threats are a common form of recruitment. Usually traffickers choose pretty girls who come from poor families. The most common “contracting places” are along the borders. Those trafficked from Guatemala for sexual exploitation are usually minors, both boys and girls, from poor families. The traffickers often approach these individuals and offer them lucrative jobs, which would allow them to make regular remittances back to their families. The methods of approach include promises of economic rewards, jobs in cafeterias or beauty parlors, or jobs in other countries. The means of promotion include flyers, newspaper advertisements, and verbal or personal recommendations.

NGOs and the press credibly alleged that some Immigration Service officers accept bribes in return for allowing traffickers to bring children into the country for purposes of sexual exploitation.

The Government is making efforts to combat trafficking despite resource constraints and endemic corruption. The law specifically prohibits trafficking and smuggling of persons. The Government investigates trafficking cases; however, there have been no prosecutions of trafficking cases since victims often fail to press charges due to a cumbersome judicial system and fear of reprisal. Prison sentences for traffickers are commutable to fines. The Government does not assist or protect victims of trafficking, although victims are not treated as criminals. However, Casa Alianza reported in May that nine trafficked minors found in a brothel were temporarily jailed by authorities "for their own protection." The Government has conducted antitrafficking and antismuggling public awareness campaigns, and it provides limited funding to NGOs dedicated to preventing trafficking.

The Defense of Children's Rights unit in the Human Rights Ombudsman's Office and the Minors' Section of the Prosecutor's Office investigate cases of trafficking. Officials in the Labor Ministry also raise the issue with the police and social welfare agencies as part of their efforts to combat child labor and child exploitation. NGOs that focus on women and children's rights often help victims of trafficking and work to educate the population about the dangers of trafficking.

The country is a significant transit and source country for alien smuggling, both from neighboring Central American countries as well as Ecuador, China, Taiwan, and South Asia. Some aliens are trafficked to the United States. Traffickers use force, coercion, fraud, and deception. In one instance, Chinese male victims apparently agreed to debt bondage to pay off their transportation costs, while female victims, some of whom were under age 18, apparently were being taken to the United States to work as prostitutes. The victims were told that their families in China would suffer if they broke the debt bondage agreement.

Sexual exploitation of children is a growing problem, including child prostitution and the trafficking of children for purposes of prostitution. In June Casa Alianza estimated that there were more than 15,000 sexually exploited boys and girls in the country, many working in the more than 600 bars and night spots in Guatemala City. The report also noted an increase in visitors to the country for the purposes of child sex tourism. Child prostitution is especially a problem in the capital and in the towns of Escuintla, Tecun Uman, and Coban. There continues to be a rise in child prostitution in towns along the borders with Mexico and El Salvador. Child migrants who fail to cross the border into Mexico often remain in the country and resort to prostitution to survive. Many children are also brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that force the children into prostitution (*see* Section 6.f.). Laws protecting children from sexual exploitation are weak. Victim protection programs are nonexistent, and children who are taken into custody are often treated poorly by authorities and deported. In July police jailed nine children, some as young as 14, who were trafficked from El Salvador to work in brothels. The police released them after Casa Alianza offered to provide the victims with counseling, housing, and repatriation.

In 2001 the Social Secretariat for the Welfare of Children, in conjunction with a commission of NGOs and other government ministries, presented the National Plan of Action against Sexual Exploitation of Children in Guatemala. The plan is an initiative to fight child prostitution and pornography, trafficking of children, and sex tourism. The Government, however, has not yet committed the financial resources to implement it. In April the authorities apprehended a Canadian citizen who, while living in a rural indigenous community, took pornographic photographs of minors for export to Canada.

The U.N. Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography visited the country in 1999, and noted a marked increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings. In its 1999 annual report on the state of children, the Archbishop's Human Rights Office identified the growing problem of child prostitution as inextricably linked to that of trafficking in persons, noting that no child prostitute got there alone.

GUYANA

The Co-operative Republic of Guyana has a multiparty political system based on proportional representation. Citizens elect an executive president and a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In

March 2001, citizens voted in a generally free and fair national election to reelect the People's Progressive Party (PPP) and its Civic (C) partner. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. Social unrest and occasional violence marred the postelection period, with the main opposition party alleging that election procedures violated the Constitution. Despite some technical problems, international observers considered the elections free and fair. The judiciary, although constitutionally independent, was inefficient and often appeared subject to government influence.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) were under effective civilian control. The GDF was a professional military responsible for national defense, internal security, and emergency response. The GPF, which included a Target Special Squad (TSS) that has some paramilitary training, has the authority to make arrests and was responsible for maintaining law and order throughout the country. Some members of the police force committed human rights abuses.

The economy, which for years was controlled under a system of central planning, was based on a mix of private and state enterprises. The country has a population of approximately 735,000. Rice, sugar, bauxite, gold, fish, and timber were the major exports. There were severe shortages of skilled labor, and the economy was constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Government estimates placed real economic growth at 1 percent during the year, compared with 1.9 percent in 2001. A 1999 U.N. Development Program living conditions survey showed that 35 percent of the population lived in poverty; 21 percent were extremely poor.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police continued to commit unlawful killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but in general, the police continued to commit abuses with impunity. Prison conditions remained poor, and lengthy pretrial detention continued to be a problem. The inefficient judicial system resulted in long delays in trials. Police infringed on citizens' privacy rights. The Government charged a television talk show host and a political activist with treason. Violence against women and children, societal discrimination against women and indigenous Amerindians, incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese, child labor in the informal sector, and trafficking in persons were all problems. Guyana was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—The police continued to commit unlawful killings. The Guyana Human Rights Association (GHRA) reported that the police killed 24 civilians during the year, compared with 16 in 2001. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Public investigations rarely were conducted into such killings; in general police abuses were committed with impunity.

In February five prisoners escaped from the Georgetown Camp Street Prison, setting off a crime wave that overwhelmed the security forces. The GPF had little success apprehending the criminals, who began targeting police officers. From February to October, 12 law enforcement officers were killed in separate incidents.

On April 6, members of the TSS killed Shaka Blair during a night raid on his house in Buxton. Police alleged that Blair was harboring the February prison escapees and fired on police as they approached the house. Police claimed that they found a hand grenade in his possession. Blair's wife and neighborhood residents disputed the police version of events, claiming that Blair was murdered as direct retribution for the killing of TSS member police Superintendent Leon Fraser on April 2. On April 16, Working People's Alliance executive committee member Eusi Kwayana filed private criminal murder charges against GPF Senior Superintendent Steve Merai of the TSS for Blair's murder. The Director of Public Prosecutions (DPP) dismissed those charges; however, the case was appealed to the High Court where it was awaiting a ruling by the Chief Justice.

On May 10, police killed Wesley Hendricks during a raid on his house in Georgetown. Police stated that they stormed the residence after receiving a tip that one of the February prison escapees was seen in Hendrick's house. The raid netted a sizable quantity of weapons and ammunition.

On July 3, members of the Presidential Guard shot and killed Mark Crawford and Albeta Fufe after approximately 100 protesters, led by local political activist Phil-

lip Bynoe, stormed the Presidential Office Compound in Georgetown during a large opposition political protest march. The Government charged television talk show host Mark Benschop and Bynoe with treason for inciting the crowd to invade the complex (*see* Section 2.b.).

On July 25, Kwame Pindleton and Leroy Lowe were killed during a shootout with police after they attempted to run a police roadblock outside Georgetown. Two other men with Pindleton and Lowe managed to escape. News reports identified Lowe as a former police officer. The GPF stated that Pindleton was wanted in connection with several murders.

On September 21, police shot and killed Dexter Dubissette in Georgetown. Police stated that Dubissette was killed during an encounter with members of the TSS, but eyewitnesses disputed the police statements. They claimed that Dubissette was killed after being summoned to approach the vehicle in which TSS officers were riding.

On October 11, police shot and killed Shawn Welcome while he was in custody. Police arrested Welcome for possession of a weapon, a hand grenade, and a quantity of cocaine and cannabis. Police stated that Welcome was shot after he attempted to wrestle a gun away from an officer escorting him to a police station. Police sources stated that Welcome, along with three accomplices, was wanted in connection with four murders and a series of robberies.

In February the High Court nullified the November 2001 coroner's jury verdict that the police were responsible for the 2000 death of Mohammed Shafeek, who died in Brickdam police lockup.

In most of the killings by police in previous years, including the police shootings of Azad Bacchus, Shaazad Bacchus, and Fadir Ally in 2000, and of Fazal Narine and Colin McGregor in 1999, there were no new developments.

During their weekly press conferences, representatives of the opposition party, the People's National Congress/Reform (PNC/R), called repeatedly for public inquiry into the operations of the TSS and urged the Government to dismiss the Minister of Home Affairs. On April 9, at a rally following street violence that broke out after the April 6 police killing of Shaka Blair, opposition leader Desmond Hoyte called for the Government to disband the TSS and claimed that the Blair shooting "must be laid at the feet of the PPP government." The Government continued to refuse to recognize police killings as a problem and did not conduct any special investigations into the operations of the TSS.

In June 2001, the GHRA issued a press statement strongly criticizing the increase in extrajudicial killings and calling for a National Oversight Committee to implement a national security policy. It stated that the GPF was overwhelmed by criminal and politically induced lawlessness. According to the GHRA, eight police killings took place during the 2 months after the national elections in 2001, and the GHRA recommended investigations into the coincidence of periods of high levels of political lawlessness and such killings.

In March 2000, the U.N. Human Rights Committee made 22 recommendations to the Government, including a call for prompt investigation by an impartial body of police killings and excessive use of force. It also called for measures to ensure the prosecution of offenders and to provide effective remedies to victims. The Committee recommended that all law enforcement officials receive thorough training in international human rights standards. During the year, the GHRA conducted two general human rights training programs for the GPF, two programs for the Prison Service, and one session for the GPF and the GDF.

Many justice authorities and human rights activists stated that due to rising crime and pressure from urban businesses, which were often the targets of criminals, the Government did not actively pursue investigations of alleged police abuses.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture; however, police continued to abuse suspects. The GHRA continued to consider mistreatment of prisoners by prison officers a problem. Moreover, inmates, attorneys, and judicial authorities provided credible evidence that police and correctional officers frequently ignored the actions of other inmates who beat, robbed, or otherwise mistreated "problem" prisoners.

The Police Complaints Authority (PCA) was composed of five members who investigated complaints against police officers. The law provides for the independence of the PCA; however, most members were from the criminal justice system, and the PCA was not truly independent. The PCA received 98 complaints through September (compared with 44 in all of 2001); it completed investigations of 43 cases and sent them to the Police Commissioner for action. However, there was no information publicly available on the status of the investigations. Even when police offi-

cers faced charges, most of the cases were heard by lower magistrate courts, where other specially trained police officers served as the prosecutors (*see* Section 1.e.). Human rights monitors questioned officers' commitment to prosecute their own colleagues.

The Office of Professional Responsibility (OPR) also investigated complaints against police. As of 2000, at least 99 cases resulted in some type of disciplinary action being taken against police officers. The OPR did not release any information on how many cases it received during the year, how many it completed action on, and how many were awaiting instructions from the Department of Public Prosecutions.

Prison and jail conditions were poor, particularly in police holding cells. Georgetown's Camp Street Prison, the country's largest, was overcrowded. The Prison Authority reported that there were approximately 600 inmates in the facility, a decrease from 850 held there in 2001. According to prison officials, the facility was intended to hold 500 inmates; however, the GHRA stated that the Camp Street Prison initially was designed to hold 350 inmates. Conditions in the country's four smaller prisons generally were adequate; they held between 650 and 700 inmates. The GHRA continued to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale was a serious problem. Prison staffers were poorly paid, and their salaries and benefits were insufficient to compensate for the on-the-job risks; however, they made efforts to improve conditions for prisoners. Prison officials lobbied the Government for increased funding to improve prison conditions; they also encouraged efforts by local and international nongovernmental organizations (NGOs) to improve physical and sanitary conditions.

In July 2001, members of a United Kingdom Prison Reform Team recommended that a high-level Commission on Criminal Justice be established to address the problems within the prison system. The team spent 18 months reviewing the Prison Service and found the major problems to be overcrowding, poor conditions for prisoners and staff, perceived infringement of basic human rights, minimal rehabilitation, and high cost to taxpayers. The most immediate concern of the team was overcrowding, which was attributed in large part to the lack of alternatives to imprisonment. The team found that more than 80 percent of prisoners were serving time for minor offenses with sentences of from 1 to 3 months.

The GHRA reported no deaths in prison during the year attributed to overcrowding; 12 prisoners died from disease. In October 2000, the GHRA criticized prison authorities for the death of Michael Ramcharran at the hands of another inmate, which the GHRA said was the direct result of overcrowding at the Camp Street Prison. To reduce overcrowding, the GHRA called on the judiciary to consider alternate sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. However, the Government did not adopt any of these recommendations. The Parole Board continued to play a more active role, but was reluctant to release prisoners due to insufficient postrelease resources, including a lack of staff to monitor parolees.

Although sanitary and medical conditions in police station temporary holding facilities varied, in almost all cases these conditions were worse than those in the prisons. Some such jails were bare, overcrowded, and damp. Few had beds, washbasins, furniture, or utensils. Meals normally were not provided; friends and relatives had to bring detainees food and water. Cells rarely had sanitary facilities, and inmates sometimes were escorted by staff members outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown had poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically held up to 30 detainees and often was the site of violence between inmates. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as 4 years, waiting for the overburdened judicial system to act on their cases.

Pretrial detainees were held separately from convicted prisoners.

Conditions were generally adequate in the only women's prison, which is at New Amsterdam, in a facility that held men and women in separate dormitory-type buildings. There were a number of vocational and educational courses. In 2001 the GHRA urged that female inmates' responsibility for children be recognized in terms of length of sentence and facilities for family contact. The East La Penitence police jail, where female prisoners were held until sentencing, was upgraded in 2000; sanitation improved, and piped water was provided for the inmates.

Following widespread criticism caused by the detention in 1999 of two boys (ages 8 and 11) with adult prisoners who mistreated them, police were careful to place

juvenile offenders in a fairly adequate separate facility. The Ruimveldt police station was the only facility holding juveniles between ages 14 and 17 years.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities. The GHRA participated as a member of the prisons' visiting committee, which investigated prisoner complaints, inspected diets, reviewed primary medical care services, and provided recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Bail was generally available, except in capital offense cases. In narcotics cases, magistrates had limited discretion in granting bail before trial and were required to remand persons convicted of such crimes into custody, even if an appeal were pending.

Lengthy pretrial detention remained a problem; however, the Government, according to the GHRA, made an effort to reduce the backlog of cases. It raised the salaries of magistrates and demanded that judges spend more time hearing cases and handling matters more expeditiously. The GHRA estimated average pretrial detention at between 18 months and 2 years; a decline from 3 or 4 years common in past years.

The Constitution prohibits forced exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, but law enforcement officials and prominent lawyers questioned that independence and accused the Government of intervening in certain cases. In most human rights cases, the Government generally respected the independence of the judiciary.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates were members of the civil service and were trained lawyers. The magistrate courts dealt with both criminal and civil matters, and specially trained police officers served as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, headed by the Attorney General, was the principal legal advisor to the State. The Director of Public Prosecution was statutorily independent and could file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right generally was respected in practice.

Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. There were reports that police who served as prosecutors in lower magistrate courts were reluctant to prosecute police accused of abuses (*see* Section 1.c.). The inefficiency of the judicial system undermined due process.

Lengthy pretrial detention remained a problem (*see* Section 1.d.).

In June 2001, Members of Parliament voted to amend the Constitution, incorporating a number of recommendations from the Constitution Reform Commission. Intended to strengthen the judiciary, the changes removed from executive control the appointment of judges and members of the Judicial Service Commission (JSC), as well as the ability to extend the tenure of judges beyond the age of retirement. In addition, the bill granted the JSC power to appoint the Director and Deputy Director of Public Prosecutions, the Registrar and Deputy Registrar of the High Court, and the Registrar and Deputy Registrar of Deeds. The amendments also allowed the President, on the advice of the JSC, to make temporary appointments of judges to sit in magistrate courts and the High Court. The number of appointments was to depend on the outcome of an audit of pending cases.

Due to the absence of the Constitutional Service Commissions (Public Service Commission, the Police Service Commission, the Teaching Service Commission, and the Judicial Service Commission) there were no appointments or promotions to Public Service, the Police Force, the Teaching Service, or the judiciary and magistracy for over a year. The service commissions were casualties of the political impasse between the PPP/C and the PNC/R over the composition in Parliament of the four sectoral standing committees and the representation of each party on the parliamentary management committee.

Defendants were granted public trials, and appeals could be made to higher courts. Defendants were presumed innocent until found guilty. Cases in magistrate's courts were tried without jury; more serious cases were tried by jury in the High Court. Appeals of some murder cases may go on for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had only a limited effect. Judicial staff still needed further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There was no public defender system, but defendants in murder cases who needed a lawyer were assigned an attorney by the court.

The Georgetown Legal Aid Clinic, with public and private support, provided advice to persons who could not afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases (for example, assault as part of a divorce case). The Guyana Association of Women Lawyers provided free legal services for civil cases only.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the right of privacy; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were numerous reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking was a problem.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Citizens openly criticized the Government and its policies.

The independent Stabroek News published daily, and a wide range of religious groups, political parties, and journalists published a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covered a broad spectrum of political and nongovernmental groups. However, throughout the year, the Chronicle typically displayed a clear antiopposition bias.

On July 11, police arrested Mark Benschop, talk show host of the television program "Straight Up," and charged him and political activist Phillip Bynoe, who remained at large, with sedition and inciting persons "by words and conduct" during the July 3 storming of the Presidential Office Complex. The Government alleged that Benschop and Bynoe delivered speeches at several public meetings between June 1 and July 3 urging their audiences to overthrow the Government (*see* Section 2.b.). In August the Government began a preliminary inquiry into charges of treason against Benschop; the case was still pending at year's end.

On May 24, President Jagdeo signed the Inter-American Press Association's 1994 Declaration of Chapultepec and stated that the local media corps had nothing to fear from the Government.

In contrast to the Government's tolerance of the print media, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owned and operated the country's sole radio station, which broadcast on three frequencies. There were no private radio stations, and private interests continued to allege that the Government either denied or failed to respond to more than 20 requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 12 independent television stations in addition to the Government station.

On May 9, VCT Channel 28 aired a taped statement by the late prison escapee Andrew Douglas proclaiming his innocence and protesting lengthy trial delays. In the absence of a broadcast authority, the Government asked the Advisory Committee on Broadcasting to sanction the television station for breach of broadcast standards relating to content. The three-member committee refused to rule on the issue, stating that it was not in its mandate to do so.

In May 2001, Prime Minister Samuel Hinds announced that the Government no longer would tolerate unregulated broadcasting, and that all television stations would be required to adhere to existing legislation and obtain an official license. The existing laws—the Post and Telegraph Act and Wireless Telegraphy Regulations—were to remain in effect until a Commission on Broadcasting developed new broadcasting legislation. Conditions for obtaining a license included assurances that sta-

tions would not broadcast any program likely to offend the public, incite racial hatred or crime, or lead to public disorder. The opposition strongly criticized the announcement, stating that enforcement of the deficient existing legislation was an attempt to censor broadcasting that is critical of the Government. Despite the controversy, 22 stations applied for broadcasting licenses, and the Government granted 15 licenses in December 2001.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, the police occasionally used force against demonstrators.

The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that it may provoke a breach of the peace. In cases of refusal, applicants may appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally was granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

On July 3, members of the Presidential Guard shot and killed Mark Crawford and Albetha Fufe after approximately 100 protesters, led by political activist Phillip Bynoe, stormed the Presidential Office Compound in Georgetown during a large opposition political protest march (see Section 1.a.). Organizers staged the march to coincide with the Caribbean Community (CARICOM) Heads of government Meeting hosted by the Government. The Government charged television talk show host Mark Benschop and Bynoe with treason for inciting the crowd to invade the complex.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and the Government generally respected this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice most persons traveled throughout these areas without regard to the formality of a permit. Citizens were free to travel abroad, to emigrate, and to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government did not have a formal policy on refugees or asylum and did not enact model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens enjoyed this right and exercised it in free and fair elections held in March 2001. There was a multiparty political system based on proportional representation. Voters indirectly elect the President to a 5-year term of office. Any citizen 18 years or older may register to vote.

The party that wins the most votes for parliament wins the presidency. A party's presidential candidate must be announced in advance of the election. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. Citizens were free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provided only a limited check on the executive's power. In November 2000, the National Assembly amended the Representation of the People Act and the Constitution to permit the election of 25 of the 65 deputies from regional constituencies. Voters elected the other 40 from a national slate of nominees chosen by the parties from different sectors of society.

In 1999 Finance Minister Bharrat Jagdeo succeeded to the presidency following the resignation of Janet Jagan for health reasons. In December 2000, Parliament passed a Constitutional Amendment Act that imposed a 7-year residence requirement on candidates for the presidency and set a limit of two terms. In addition, the act removed a clause that made the President immune from prosecution, and it lim-

ited to four the number of ministers who need not be elected Members of Parliament.

In March 2001, citizens voted in a generally free and fair election to sustain the PPP/C in office, defeating the PNC. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. However, the opposition called for the courts to declare the election unconstitutional and illegal, which delayed Jagdeo's swearing in until later that month.

In response to allegations of an unconstitutional electoral process, the Guyana Elections Commission (GECOM) ordered a review and audit of the March 2001 election, conducted by an eight-member team headed by a representative of the Institute for Democracy and Electoral Assistance (IDEA). The team investigated voter registration, the production of identification cards, staffing of polling stations, operational and contingency planning, the counting of votes, and the declaration of election results. As part of the review, the team conducted detailed consultations with political parties, representatives of civil society, and members of GECOM in June 2001. The results, published in mid-August 2001, stated that IDEA was unable to find any evidence of deliberate manipulation or electoral fraud despite several procedural errors and system failures that the audit examined in some detail. The report found no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition alleged.

Guyana is a racially divided society in which the political party structure reflected the polarization of the main ethnic groups. The two major parties (the PPP and the PNC) were formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There were no legal impediments to the participation of women or minorities in the political process. The December 2000 constitutional amendments required that one-third of the parliamentary candidates be female. The 65-member Parliament included 20 women and 4 Amerindians, representing both major parties. The 20-person Cabinet included 4 women and 1 Amerindian, and the Chancellor of the Judiciary was a woman.

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

The authorities did not interfere with the activities of human rights groups. The GHRA, the most active local human rights group, functioned without government interference. Trade unions, professional organizations, various ethnic groups, and churches participated in the GHRA. It issued periodic press releases and published an annual report on human rights. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

In June 2001, Parliament approved an act that provided for the establishment of a Human Rights Commission (HRC). The HRC was charged with promoting the observance and respect for rights outlined in the Constitution, and protecting and investigating violations of these rights and any other law relating to equality of opportunity and treatment. The HRC comprised a Chairperson and the four chairpersons of the Women's, Children's, Indigenous, and Ethnic Relations Commissions in the Parliament; however, these commissions did not have a staff or a budget for operations.

In 2001 the GHRA issued a press release in response to the announcement of the newly established HRC, calling the Commissions Act a "lost opportunity," and criticizing the haste with which the act was developed and implemented. It further complained about the lack of members specifically charged with observing, protecting and investigating fundamental human rights and freedoms, and the lack of authority given the commission.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin; however, the Government did not always enforce these provisions effectively.

Women.—Violence against women, including domestic violence, was widespread, and NGOs reported that domestic violence crossed racial and socioeconomic lines. Despite efforts by NGOs and the DPP to sensitize police officers to domestic violence, the police often were hesitant to interfere in cases of domestic disputes. According to Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, it handled 375 cases of abuse, including child, spousal, nonspousal, and other domestic abuse between January and September.

The Domestic Violence Act defines domestic violence, establishes it as a crime, and gives women the right to seek prompt protection. Magistrates may issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out

an application for protection. A magistrate then evaluates the case and decides whether to replace interim orders with permanent orders. The act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibited abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders were violated, the abuser could be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months; however, this legislation frequently was not enforced. Occupation orders allowed the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders required an abuser to leave a rented dwelling and to continue to pay some or all of the rent. The GHRA criticized the structure of the Domestic Violence Act, stating that the law could not be implemented until appointments have been made to the Women's Affairs Bureau. In addition, the GHRA reported that the forms needed to request court orders were printed infrequently and were rarely available to the public.

In March 2000, the U.N. Human Rights Committee criticized the lack of information about the effect of the Domestic Violence Act in reducing the level of violence against women. The committee called for training police and other law enforcement personnel in the importance of ensuring that women who were victims of violence were accorded equal protection and that preventive and punitive measures were enforced. In 2001 the Government held 2-week training seminars for police officers to sensitize them to the issues and advise them about procedures. The authorities required officers who received training to conduct outreach to other officers.

In its efforts to combat domestic violence, H&S focused on societal reeducation in order to sensitize the public to domestic violence. By February 2001, H&S had counseled 3,872 persons since it began offering counseling services in November 1995. H&S reported that 79.2 percent of its cases from January to October involved spousal abuse.

Rape, particularly of girls and young women, was a serious problem but infrequently reported or prosecuted. Health professionals and NGOs also reported a high incidence of incest. Lawyers said that while more victims reported these crimes to the authorities, there still was a social stigma applied to the victim for doing so. An estimated 3 percent of cases reported to H&S were rape cases; the vast majority of these—70 percent—were reported by victims age 17 and under.

Prostitution is illegal, but it did occur, and it received increased public attention due to the high incidence of HIV/AIDS among prostitutes.

There was no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds did not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The Women's Leadership Institute, a collaborative effort between the Government and the U.N. Development Program, sought through education and training to facilitate greater participation by women in government and the private sector. The center planned to train an average of 350 women annually on issues such as women's rights, status of women, violence against women, and leadership development. In September 2001, 100 women began the first phase of the program, which involved 15 hours per week of training for 4 months.

The 1997 Antidiscrimination Act built upon the provisions of the 1990 Equal Rights Act. The two laws provide a strengthened framework under which women and minorities may seek redress for discriminatory acts or practices. However, no case ever has been tried under the Equal Rights Act, and critics of the Antidiscrimination Act claimed that it was unlikely to be effective since it places enforcement responsibilities on the overburdened Chief Labor Officer.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remained illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

Children.—Children were affected more severely by the country's poverty than any other group. One-third of the population was under 18 years of age and, although the Government provided free education through secondary school (it is compulsory until age 14), the severe deterioration of the public education and health care systems limited children's future prospects. The public health system was inadequate, and private health care was unaffordable for many children. Children often did not attend school because their families needed them to contribute to the household by working or providing childcare for siblings or younger relatives (*see* Section 6.d.).

Concern continued to rise over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place, since law enforcement officials believed that the vast majority of criminal child abuse cases were unreported. H&S reported that it received 31 cases of child abuse between January and September, the equivalent of 8 percent of its cases for that time period. In June 2001, the Welfare Section of the Georgetown Education Department stated that reports of physical and sexual abuse of children were on the rise, with an average of two to three cases per month in the capital city alone. There were no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the 400 children under the age of 5 who died each year, deaths that usually were attributed to malnutrition or disease.

Media reports of rape and incest further indicated that violence against children was a significant problem. The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child, but there was a lack of social services or trained experts to assist children fleeing sexual, physical, or emotional abuse. Many children suffered from neglect or abandonment, particularly when from 1 to 2 percent of the adult population emigrate each year, often leaving children behind.

There were reports of child prostitution (*see* Section 6.f.).

UNICEF criticized the practice in which girls traded sexual favors for money, gifts, or help in employment or higher education, a practice sometimes condoned by their parents yet obscured by cultural norms.

Media reports indicated that violence against children in public schools continued to occur, but Education Ministry data on the number of corporal punishment cases were unavailable. In June 2001, one student suffered a broken collarbone and another a broken elbow as a result of flogging by their teachers. Both teachers involved in the incidents returned to work pending investigations. The Ministry of Education responded to these incidents with a 30-point program intended to phase out corporal punishment in schools.

Persons with Disabilities.—There was no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult to employ persons with disabilities outside their homes. In 1997 Parliament passed a law establishing a council for persons with disabilities, which functioned throughout the year. There were several special schools and training centers for persons with disabilities, but the facilities lack trained staff and were in disrepair.

Indigenous Persons.—The Amerindian population, which consists of nine tribal groups, constituted an estimated 8 percent of the population. Most lived in reservations and villages in remote parts of the interior. Their standard of living was much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources was limited. Access to education and health care in Amerindian communities was limited severely.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what is an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment; however, these provisions were not enforced. Both Amerindian individuals and groups remained free to criticize the Government. In 1998 the Ministry of Amerindian Affairs admitted that the Amerindian Act was antiquated and expressed a commitment to update it, although it took no action to do so.

The Government has long maintained that it was committed to demarcating lands that traditionally have been the home of Amerindians, but the Government held title to almost all the country's land and was free to act as it wished without consultation. According to the Amerindian Peoples Association, the Government demarcated over 30 Amerindian communities since 1998; however, most communities rejected the demarcations because they did not conform to community-defined boundaries, often reducing land size or transferring land to other communities. In October six Amerindian villages filed a formal land claim seeking legal recognition of land titles, but the Government failed to respond to the petition.

Amerindian NGOs regarded government consultations as mere public relations exercises and demarcation as a means of confining Amerindian communities so that the remaining areas that Amerindians considered to be their land could be offered as concessions to miners and loggers. (Most of the titles to demarcated land were granted decades ago under the Amerindian Act and did not allow for the growth

of Amerindian communities.) The Amerindian NGOs claimed that Amerindian leaders were not consulted properly and were pressured into uninformed decisions. The Government maintained that it would consider granting additional land rights to those communities that agreed to have their lands demarcated in 1999, but it did not take action to do so.

In March 2000, the U.N. Human Rights Committee expressed regret that the Government had not yet amended the Amerindian Act and expressed concern that Amerindians did not enjoy fully the right to equality before the law. The Committee particularly was concerned that the right of Amerindians to enjoy their own culture was threatened by logging, mining, and delays in the demarcation of their traditional lands, and that in some cases insufficient land was demarcated to enable them to pursue their traditional economic activities.

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. Members of both the largely Indo-Guyanese PPP and the largely Afro-Guyanese PNC engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and defense and police forces overwhelmingly were staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. In the aftermath of the 1997 and 2001 national elections, the Government continued efforts to recruit Indo-Guyanese for the security forces. The Government also sponsored various forums for discussion of racial problems and to promote inclusion, and it supported the work of NGOs that dealt with these concerns.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, came into effect in 1999, but implementation has been slow. The Trade Unions Recognition Board, created by this act, did not grant recognition to any new unions; it issued recommendations to recertify existing unions that previously had represented workers, but the process was delayed.

Approximately 32 percent of the work force was unionized. Most union members worked in the public sector and in state-owned enterprises. There was no law prohibiting antiunion discrimination by employers.

Organized labor freely associated in the major national federation, the Guyana Trades Union Congress (GTUC), which was composed of 22 unions. There was a tradition of close ties between the trade union movement and political parties. Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This arrangement occasionally led to overt politicization of labor issues. Efforts to negotiate a new contract between the Government and the Guyana Public Service Union (GPSU) were deadlocked amid allegations of bad faith that had distinct political and racial overtones. The GPSU was largely Afro-Guyanese and the governing PPP was largely Indo-Guyanese.

Unions and their federations freely maintained relations with recognized international trade union and professional groups. All three of the major international trade union federations had affiliates in the country.

b. The Right to Organize and Bargain Collectively.—Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certifies all collective bargaining agreements and has never refused to do so. Individual unions directly negotiated collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the GTUC. Unions were dissatisfied with a provision that granted the Ministry of Finance veto power over wage contracts negotiated by other ministries. The Chief Labor Officer and the staff of the Ministry of Labor provided consultation, enforcement, and conciliation services.

The law provides workers with the right to strike. Strikes may be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they were required to engage in compulsory arbitration to bring an end to a strike. The International Labor Organization (ILO)

urged the Government to amend this legislation to limit the use of compulsory arbitration to only those strikes in services the interruption of which would endanger life, personal safety, or health. There was no law prohibiting retaliation against strikers or antiunion discrimination by employers; however, this principle always was included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, were legally enforceable.

During negotiations in October for a new contract with the Government, the GPSU demanded a 64 percent increase in the monthly minimum wage. It argued that a substantial increase would end underperformance and an exodus of trained and skilled public servants. The negotiations deadlocked, and in November the Government announced it would grant a 5 percent increase to most public service workers, retroactive to January. The GPSU rejected the increase, stating that it was intended to create the false impression that the Government was responding to public calls for economic assistance. The GPSU continued to insist that the matter be resolved through arbitration, to which both sides had previously agreed. The Government stated that it had consistently increased wages for public servants since taking office in 1992.

In 1999 following a civil service strike, an arbitration panel awarded government workers an across-the-board 31 percent pay increase for 1999, an additional 26 percent increase in 2000, and step increases. While the Government paid the annual increases, it did not agree to implement step increases; pay increases must be negotiated annually.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and there was no indication that it occurred. The Government prohibited forced or bonded labor by children and generally enforced this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children. According to UNICEF, however, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industrial undertaking and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family were employed.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively. The practice of teenage prostitution was a problem (*see* Section 6.f.).

e. Acceptable Conditions of Work.—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers, but there was no legislated private sector minimum wage. As a result of the civil service arbitration ruling in 1999 (*see* Section 6.b.), the minimum public sector wage increased to \$104 (G\$19,000) per month. Although enforcement mechanisms existed, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally. The legal minimum wage for the public sector was insufficient to provide a decent standard of living for a worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general work in excess of an 8-hour day or a 44-hour week required payment of an overtime rate. However, if the initial contract stipulated a 48-hour workweek, then the overtime rate applied only for hours worked in excess of 48 hours. The law does not require at least a 24-hour rest period each week.

The Factories Act also establishes workplace safety and health standards. The Ministry of Labor implemented programs in the workplace to promote HIV/AIDS awareness and provide information on related health issues in order to combat discrimination. The Occupational Health and Safety Division of the Ministry of Labor was charged with conducting factory inspections and investigating complaints of substandard workplace conditions. The ILO's Committee of Experts criticized the Occupational Health and Safety Act for failing to protect workers adequately who use chemical substances that were proven to be carcinogenic. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

f. Trafficking in Persons.—There were no laws that specifically prohibit trafficking in persons, and there was some evidence that women were brought into the country from Brazil to work in clubs and bars, and that women from Colombia and the Dominican Republic were trafficked through Guyana to Suriname, where they were reportedly trained to become sex workers in Europe.

There were reports of child prostitution, by teenagers in cities and in remote gold mining areas in Amerindian communities.

There were also occasional reports of trafficking in persons of Chinese and South Asian origin, who would immigrate illegally to the United States under conditions amounting to debt bondage. Persons providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence. Some fraud cases were prosecuted during the year.

HAITI

Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In May 2000, the Provisional Electoral Council (CEP) manipulated the results of the election to ensure that Fanmi Lavalas (FL) maintained control of the Senate. The opposition parties boycotted July 2000 runoff elections and the November 2000 presidential elections, in which Jean-Bertrand Aristide was elected with extremely low voter turnout. Efforts by the Organization of American States (OAS) to resolve the dispute were not successful. The 1987 Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the Armed Forces of Haiti (FAd'H). Despite a cadre of competent and committed officers trained by U.S., French, and Canadian authorities, HNP officials at all levels were implicated in corruption, incompetence, and narcotics trafficking. The HNP failed to pursue criminals, promoting a growing condition of judicial impunity. The HNP is officially an autonomous civilian institution; however, political leaders increasingly exercised control over elements of the police and influenced it for personal or political gain. President Aristide filled many key HNP positions with political allies lacking experience, training, and credibility. Some parliamentarians, mayors, and members of local government councils (CASECs) exercised arrest authority without legal sanction. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMO) serving Port-au-Prince and the Western department; crowd control units (UDMOs) serving each of the remaining eight departments; and a small Coast Guard unit. The Special Brigades (BS) reportedly carry out politically motivated executions and is comprised of pro-FL paramilitaries. The large and well-funded Presidential Security Unit was officially part of the HNP, but had a stand-alone budget and was administratively and functionally independent. Civilian deaths and serious injuries resulted from the inability of HNP, CIMO and SWAT units to maintain order. Some members of the HNP committed human rights abuses during the year.

The country has a market-based economy and state-controlled utilities, and its economic situation worsened significantly during the year. A small elite controlled much of the country's wealth, but two-thirds of the estimated 8 million citizens worked in subsistence agriculture and were extremely poor. The informal sector accounted for approximately 70 percent of all economic activity, making taxation problematic. Remittances, estimated at \$800 million in 2001, were a growing revenue source. Textiles accounted for approximately 85 percent of exports, but assembled goods, leather goods, and handicrafts also provided limited export revenue. The country imported 60 percent of its food, but produced mangoes, cocoa, essential oils, and coffee for export. The Haitian Institute for Statistics calculated a negative growth rate of 0.9 percent for this fiscal year. Inflation was approximately 14.8 percent.

The Government's human rights record remained poor, with political and civil officials implicated in serious abuses. There were credible reports of extrajudicial killings by members of the HNP. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and were rarely punished for such acts. Attacks on journalists and political dissenters by Fanmi Lavalas supporters continued. Prison conditions improved slightly, but were still poor and

prisoners with valid release orders continued to be held in defiance of these orders. Legal impunity remained a major problem, and police and judicial officials often failed to respect legal provisions or pursue and prosecute suspected violators. The media was largely free and often critical of the Government, but most journalists practiced some form of self-censorship. From July through December, several radio stations closed down temporarily due to intimidation and threats. Abuse of children and violence and societal discrimination against women remained problems. Internal trafficking of children and child labor, especially in domestic servitude, remained a problem. Haiti was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

In January the OAS noted a worsening political, economic and social situation in the country in Resolution 806, calling for improvements in human rights and urging the Government to work toward ending all forms of political violence. The Inter-American Commission on Human Rights (IACHR) visited in May and August to examine the status of human rights and the events of December 17, 2001 when an unknown number of unidentified gunmen attacked the National Palace in Port-au-Prince; 8 persons reportedly died and 15 persons were injured. Following the attack, progovernment groups attacked opposition members' offices and homes; one opposition member was killed. In June the OAS also began a Special Mission to Haiti to strengthen democratic institutions, with a focus on justice and human rights. In September OAS Resolution 822 called for a thorough inquiry into all politically motivated crimes, including the violence of December 17, 2001, and cited the need to strengthen independent police and judicial institutions to combat impunity.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Other Unlawful Deprivation of Life.—There were credible reports of extrajudicial killings by members of the HNP and municipal government officials.

On January 6, Deputy Jocelyn Saint Louis of Saint Raphael shot and killed commune mayor Sernand Severe following an elections-related feud and the death of the deputy's nephew during a violent confrontation between the mayor and his supporters and the deputy's family and bodyguards. On February 5, the legislature lifted Saint Louis' immunity and he was still in pretrial detention at year's end.

On May 25, the HNP killed three youths from Cite Soleil, a Port-au-Prince slum. The authorities had not undertaken an investigation into the killing by year's end.

On July 5, the security guard for a government official in the town of Hinche beat a farmer to death for trespassing on land belonging to the official. There were no arrests or judicial action in this matter by year's end.

On July 29, under the orders of the mayor of Nan Chale, near Port de Paix, persons armed with stones, sticks and machetes beat a group of farmers involved in a land dispute. The armed individuals returned later that day in an HNP vehicle, and attacked and burned homes, and beat the residents. One resident died.

On November 28, Belladere Justice of the Peace Christophe Lozama, a reputed drug-dealer with close ties to FL, was shot during a clash with opposition demonstrators in Kenp, outside of Las Cahobas. On December 10, armed men broke into Las Cahobas jail, shooting and killing four persons and freeing four detainees—two of whom were opposition members arrested for Lozama's murder. Human rights workers investigating the incident reported that the police lacked the will to conduct a fair investigation into the case and noted that authorities targeted anti-FL demonstrators for questioning and arrest.

On December 8, armed men dressed in black identified as HNP took three brothers, Angelot and Andy Philippe, and Vladimir Sanon, from their home in Carrefour in Port-au-Prince. Later that day their bodies were found with gunshot wounds and taken to the city morgue. The boys had previously protested the December 1 police robbery and shooting of their friend, Marcellus Bongue. Authorities have not arrested and no examining judge has questioned any of the three policemen whom eyewitnesses identified as the last persons seen with the brothers.

In September an investigating judge indicted 10 people in connection with the December 2001 killing of journalist Brignol Lindor; however, he did not indict Petit Goave deputy mayor Duby Bony, who allegedly incited the murder when he said Lindor should be met with zero tolerance. By year's end, police had arrested only three of those indicted (*see* Section 2.a.).

The April 2000 killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders, remained unsolved. In April investigating judge Claudy Gassant resigned from the case and fled the country, claiming fear for his life. By mid-September Ber-

nard St. Vil, the third judge assigned to the murder investigation, had questioned 12 persons, including Senator Dany Toussaint, considered a major suspect in the case; however, the Senate did not lift his parliamentary immunity.

There was no progress in several other high-profile killings, including those of Amos Jeannot (killed in 2000), Senator Yvon Toussaint and Jean Lamy (killed in 1999), and Chenel Gracien and Jean Pierre Louis (both killed in 1998). On April 12, investigating Judge Jocelyne Pierre interviewed Jackson Joanis, former head of the police antigang unit, regarding the 1994 murder of Jean Marie Vincent. Officially charged with murder, Joanis remained in pretrial detention in Petionville police station. Little action was taken on the ongoing investigation into the 1993 massacre of Cite Soleil residents by members of the FAd'H and an allied paramilitary group, the Revolutionary Front for the Advancement and Progress of Haiti (FRAPH).

Vigilante killings are a long established practice in the country; however, their incidence increased following President Aristide's "zero tolerance" exhortation to police and citizens to bypass the judicial system if they caught criminals in the act. During the year, human rights organizations, journalists, and opposition groups criticized the Government's support for this practice.

On May 31, residents of Cazeau lynched a thief. On July 5, an angry crowd pursued an Hinche city official's security agent who had beaten a peasant to death. They found him taking refuge at the local bishop's residence, stoned him to death, and ransacked the building. The HNP, saying it was powerless, did not respond to the bishop's calls. On July 15, a group of stevedore union members seized a low-level manager at the Port Authority and burned him alive during a clash with members of another union after the deaths of the stevedore union president and his colleague. The stevedores alleged that the manager had been involved in the union leader's death.

On March 27, months after issuance of an arrest warrant, police arrested Ronald Camille "Cadavre" for the September 2001 killing of activist Fritzner Jean. In December, due to serious illness, authorities transferred Camille from the national penitentiary to Saint Francois de Sales, a private hospital, where he remained at year's end.

b. Disappearance.—There were credible reports of politically motivated disappearances.

On September 17, members of the HNP reportedly detained Felix Bien Aime, a gangster with government ties implicated in the events of December 2001 and in the 1999 Fort Mercredi massacre and two of his colleagues, Paul Mauzac Jean and Djal Normil. Despite demonstrations by Bien Aime's supporters, the HNP refused to comment on his detention or whereabouts. Human rights organizations believe that all three were killed.

On October 14, police arrested and beat two members of the Konvansyon Inite Demokratik (KID) opposition party, David Barjon and Jean Lafouche, after an argument over public housing. Their whereabouts remained unknown. The HNP did not comment on the case nor kept a written record of the arrest. Human rights organizations believe they were killed.

On October 23, the chief of the police unit assigned to the National Palace, Paul Voltaire, disappeared. He had reportedly uncovered a drug-trafficking ring involving progovernment supporters. Human rights organizations believe he was killed.

On October 26, authorities arrested former soccer player Emmanuel Auguste and took him to Carrefour police station. Family members visited him there that day. By the next day, Auguste had disappeared. Human rights organizations believe he was killed.

On November 13, ex-military officer and former Petionville police commissaire, Jean Lewis Bourgouin, disappeared. He reportedly was a close friend of Guy Philippe, an anti-Aristide former military officer. Human rights organizations believe he was killed.

There has been no further investigation of the human remains found at Titanyen but during the year there were frequent reports of new human remains found at Titanyen and other locations.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.—The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continued to violate these provisions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and were rarely punished for such acts (*see* Section 1.a.). Torture and other forms of abuse were reported.

Police mistreatment of suspects at the time of arrest and during detention remained common in all parts of the country. Beating with fists, sticks, and belts was the most common form of abuse. Persons who reported such abuse often had visible injuries consistent with the alleged mistreatment. There were also isolated allegations of torture by electric shock. Mistreatment also took the form of withholding medical treatment from injured jail inmates.

The Government's record of disciplining police officers implicated in these offenses was inconsistent. Police were rarely prosecuted for abuse of detainees but were sometimes fined. Often the HNP simply fired officers guilty of flagrant abuses. The HNP Inspector General requested the removal of 88 police officers charged with abuse since January 2001; however, many were still on the payroll at year's end.

Despite substantial international assistance and some initial progress, the HNP was largely an ineffective institution with inadequate government support. Most new cadets entered through a competitive selection process, but the Government appointed more than half based on political and personal favoritism. In August a new class of 872 recruits began training.

CIMO was often accused of using excessive force against demonstrators (*see* Section 2.b.).

Locally elected officials allied with the FL increasingly exercised unauthorized law enforcement functions. The mayors of Hinche, Maissade, Miragoane, and Petit Goave employed small paramilitary groups to victimize and control local populations. These groups engaged in torture, property damage, and theft, and were usually better armed than local police. In rural areas, members and agents of CASECs illegally assumed police functions such as serving warrants, arresting the accused, taking testimony (often for a fee), and seizing private property. Locally elected officials often abused citizens based on perceived political disloyalty, accusing them of attempts to destabilize the Government.

The Government did not pursue investigations of Maissade mayor Willot Joseph or Hinche mayor Dongo Joseph for their involvement in March 2001 attacks on two judges investigating their paramilitary group's beatings of opposition members in July 2000. In April 2001, authorities had arrested and then provisionally released Dongo Joseph. In December 2001, he resigned as mayor and was replaced by James Joseph, a member of the same paramilitary group. Dongo Joseph was reportedly working for the Ministry of Interior at year's end.

Prison conditions remained poor. The Penitentiary Administration Management (DAP) made some progress in improving prison administration and warden training. Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The total prisoner population remained at approximately 3,600. However, the number of inmates incarcerated at the National Penitentiary dropped from 1,899 to 1,700 by year's end, due in part to concerted efforts to resolve cases.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

Prison officials confirmed reports by international human rights observers of instances of inmate abuse by prison personnel; however, no statistics were available. Prisoners and detainees, ignorant of legal rights or doubtful officials would respond positively, rarely filed official complaints. During the year, 30 guards were subjected to disciplinary action—18 were fired, 5 were temporarily suspended, and 7 were fined.

The Government established a commission to investigate the 2001 riot at the National Penitentiary but the commission has not published a report of its findings. Authorities transferred some prisoners to other facilities a week after the riot.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention (*garde a vu*) to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the DAP, focusing on midlevel warden training and management information. The National Coalition for Haitian Rights (NCHR) actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign and morale-boosting activities including a soccer tournament.

During the year, the DAP began objective testing of prison physicians and nurses to weed out those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medica-

tion. The DAP improved medicine procurement and distribution, and in June a new consultant for medical services began work at the National Penitentiary.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from men. However, in January 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners share living quarters with male prisoners. This subjects women to violence and sexual abuse.

In October Natacha Jean-Jacques, a 17 year old girl in pre-trial detention at Fort National (Port-au-Prince's female prison) since March 2000, gave birth to a son. In February she had reported to prison authorities that Ilus Denasty, a medical assistant, had raped her on February 19, after she refused his advances during a medical consultation. The DAP subsequently transferred the director of the prison and prison guards implicated in the rape, and recommended to the district attorney that charges be brought against Denasty. The trial for Jean-Jacques, originally detained and charged for homicide, had not occurred by year's end.

Due to overcrowding, juveniles often were held with adults.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority; mayors and members of local CASECs sometimes arrested persons in under-policed rural areas (*see* Sections 1.c. and 6.a.). Judges often issued arrest warrants with little or no evidence (*see* Section 1.f.). Locally elected officials and local HNP increasingly arrested spouses and other family members when they were unable to locate a suspect. Occasionally parents ask a judge to imprison a delinquent child.

Certain police jurisdictions routinely disregarded the 48-hour requirement and some detainees were held for years in pretrial detention. Although the 48-hour rule was violated in all parts of the country, it was most often and most flagrantly ignored in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Police or other government officials often apprehended people without warrants, or on warrants not issued by a duly authorized official. Moreover, arrests sometimes were made on charges such as sorcery or debt with no basis in law. The authorities frequently detained individuals on unspecified charges or pending investigation. The Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas. Detainees were generally allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail is available at the discretion of the investigative judge (*juge d'instruction*). Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Prolonged pretrial detention was a serious problem. Judicial delays left an estimated 78 percent of the country's prison population awaiting trial (*see* Section 1.e.). The problem was most extreme in Port-au-Prince, with 88 percent of National Penitentiary inmates in pretrial detention status. Eighty-six percent of females and 95 percent of minor detainees were in pretrial detention. The Justice Ministry made efforts to address the problem: between May and September, Minister of Justice Brown ordered the release of 60 pretrial detainees, and 6 judicial officials newly assigned to the National Penitentiary in May 2001 freed detainees in 120 out of the 178 cases reviewed (*see* Section 1.c.). The prolonged detention of persons with valid release orders continued to be a problem (*see* Section 1.e.).

Prisoners with histories of opposition to the Government or affiliation with the Duvalier or *de facto* regimes were affected disproportionately by prolonged pretrial detention. By year's end, political prisoners still held despite valid release orders included Esteve Conserve, Leonard Lucas, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi. However, authorities released Leoncefils Ceance, Jean-Robert Lherisson, Rilande Louis, and Calero Vivas Fabien.

Prosper Avril, former general and President of the military government from 1988 to 1990, remained incarcerated at the National Penitentiary in Port-au-Prince at year's end. In May 2001, the authorities had arrested Avril during a book promotion tour and charged him with plotting against the State. In March the Gonaives Court of Appeals ruled this arrest illegal and ordered his release, which occurred on April 12. However, the authorities immediately rearrested him on new charges of complicity in a 1990 massacre of peasants in Piatre. Following self-imposed exile abroad in April, Judge Henry Kesner Noel admitted he had inserted Avril's name in the list of accused perpetrators of the Piatre massacre on the instruction of officials close to President Aristide. On October 22, the Gonaives Court of Appeals ruled the April arrest illegal and ordered Avril's release; however, the district attorney's office in Port-au-Prince did not comply. Avril remained incarcerated at year's end.

On September 23, police arrested Rosemond Jean, leader of CONOSOVIC, a non-governmental organization (NGO) advocating government reimbursement of deposits lost in failed cooperative schemes) on charges of weapons possession and criminal conspiracy. On September 30, Jean's attorney filed a Writ of Habeas Corpus, noting arresting officers had not had an arrest or search warrant. As of year's end, the court had not yet ruled, and Jean remained incarcerated.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. Self-imposed internal and external exile were common among opponents of the regime.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference by the executive branch (*see* Section 1.a.).

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice was present or they waive this right; this right was also abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (*see* Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence was sometimes lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. On September 13, 29 judges graduated from this course and in October a new class of at least 9 students began. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (*see* Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

The Constitution sets varying tenure periods for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercised appointment and administrative oversight over the judiciary, prosecutors, and court staff. This Min-

istry can remove justices of the peace and in practice has occasionally dismissed judges above this level. During the year, citizens filed approximately 180 complaints against judges with the Ministry of Justice.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted only rarely, and autopsy reports seldom issued. The Code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. During the year, the Port-au-Prince jurisdiction, largest in terms of caseload, met once for 1 week and heard only 7 homicide cases. Criminal assizes in Port-au-Prince have met only once a year since 1998, with the last meeting held in July.

Following the IAHCR's August 26–29 visit evaluating the status of human rights, the OAS expressed its deep concern about the rule of law, the lack of judicial independence, and impunity (see Section 4). The OAS Special Rapporteur recommended that the Government "take steps to ensure the autonomy, independence, and impartiality of the judiciary." During this visit the OAS held a 2-day seminar instructing local attorneys and officials about human rights law. During the year a local NGO, working with the International Foundation for Elections Systems (IFES) and the Dominican Republic NGO Foundation for Institutionalization and Justice (FINJUS), conducted education campaigns on judicial reform and promotion of judicial independence.

The Government has limited the return of criminal deportees from the United States to 600 per year, creating a large backlog of Haitian criminals in the United States waiting to be deported. Upon their return to the country, criminal deportees are detained until a family member agrees to take custody of them and their release order is processed. This generally takes one to two months, but has lasted as long as four months in unusual instances.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements routinely conducted searches without warrants.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected those rights in practice. Several times during the year, the Government publicly demonstrated strong support for free expression; however, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some self-censorship to avoid offending sponsors or the politically influential.

There were two French-language newspapers in the country, *Le Nouvelliste* and *L'Union*, with a combined circulation of less than 20,000 readers. *L'Union* is a government-run newspaper; its editor was the Secretary of State for Communication. *Le Nouvelliste* and some irregularly printed papers were frequently critical of government policies. There was virtually no Creole-language press.

With a literacy rate of approximately 52 percent and limited access to television, the most important medium is radio, especially those stations broadcasting in Creole. There are 275 private radio stations, with 43 in the capital alone. Most carried a mix of music, news, and talk show programs that many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite and cable broadcasts were available but limited in impact: most citizens could not afford televisions. The few stations carrying news or opinion broadcasts freely expressed a wide range of political viewpoints.

Although most radio stations and other forms of telecommunications were nominally independent, they are subject to a 1997 law designating the State sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

There were several attacks on, or threats against, journalists during the year, and the legal system provided limited protection or redress. Journalists were accused of destabilizing the Government and often subjected to anonymous threats of violence, including threats of kidnaping and murder. Police and government officials often failed to protect journalists during civil unrest. The NGO Reporters Without Borders and local journalists' associations continued to protest attacks in prior years and called on the Government to provide security. The Government failed to do so, despite frequent expressions of support for free expression. The public and Popular Or-

ganizations (OPs) sometimes threatened journalists covering protests, civil unrest, and other large group events. In such cases, the Government's inability or unwillingness to provide adequate security to media outlets and journalists and tacit encouragement of "zero tolerance" contributed to an increased sense of vulnerability among members of the media who criticized the Government or FL. In the wake of the violence of December 17, 2001, 24 journalists or their family members went into self-imposed exile or sought refuge in an embassy, including journalists from Radio Caraibes, Radio Galaxie, Radio Ibo, Radio Metropole, and Radio Vision 2000.

On September 4, IACHR announced that the "murder of journalists in Haiti, along with a large number of complaints regarding harassment and threats against journalists, the media, and other social communicators, have created an unfavorable environment for freedom of expression." The IACHR Special Rapporteur for Freedom of Expression concluded that those whose freedom of expression is curtailed "cannot always rely on effective judicial protection to detect those responsible, to put a stop to intimidation, and ensure reparation for the damage done." The IACHR urged the Government to ensure full exercise of the right to freedom of expression without being exposed to reprisals (*see* Section 4). The Special Rapporteur also recommended that the country amend its laws on contempt of public authority and the criminalization of offensive language when referring to government officials.

From September 21 through 27, a U.N. independent expert on human rights conducted a fact-finding mission and cited impunity and threats to free expression as major concerns. The expert found that journalists were often forced to practice self-censorship.

On February 9, police arrested radio journalist Genet Morin of the Magic Stereo station and several members of the KID party, and held them without charges (*see* Section 3). Authorities released Morin 5 days later under pressure from local and international human rights and journalist organizations. It was unclear whether police targeted him as a journalist or because he was with KID members.

On May 27, Saint Raphael HNP arrested journalists Darwin Saint-Julien and Allan Deshommes and 11 others, and transferred them by helicopter to the National Penitentiary in Port-au-Prince. The two journalists had been covering a demonstration by peasant activists from the leftist political group Batay Ouvriye when armed local residents attacked the crowd. During the clash, two local residents died. The journalists, one of whom had suffered severe machete injuries, were held without charges until June 8. Police cited the journalists' alleged political beliefs, specifically opposition to private sector investment, as justification for the arrest (*see* Section 6.a.).

In July Saint Marc police arrested the 82-year-old mother of a journalist and detained her for 8 days without charges. Her son had refused to retract an earlier report critical of a judge. The same month, Grand Goave mayor, Rigaud Xavier, slapped a journalist in court. The mayor was pressured to resign, but prosecutors brought no charges against him.

On September 16, Judge Fritznier Duclaire indicted 10 OP members for the December 2001 killing of Petit-Goave journalist, Brignol Lindor. Police had only arrested three persons by year's end (*see* Section 1.a.).

On September 10, the Association of Haitian Journalists submitted a formal protest regarding tax bills on nongovernment-affiliated media. Many media owners felt these bills were political reprisals based on earlier presidential comments that those who did not pay their taxes should not criticize the Government. The Director of Income Tax and media owners resolved the dispute amicably, with some owners receiving a payment schedule and others new audits.

On September 26, Radio Kiskeya temporarily went off the air after receiving threats that an OP was going to attack the station. Radio Caraibes suspended news broadcasts to show solidarity with the threatened station. On September 27, three men threatened to set fire to Radio Ibo and the station closed briefly. The Secretary of State for Communication and the Prime Minister later visited Radio Kiskeya to support its operations. In a speech on October 10, President Aristide accused the media of involvement in a plot to destroy the Government, asserted an unspecified group was trying to denigrate the Government by saying it did not encourage a free press, and said fabricated threats to the media were the true threat to press liberty. FL leadership broadcast the same statements as part of an orchestrated campaign in the provinces and Port-au-Prince prior to the October 10 speech, repeating them in subsequent weeks.

There was no investigation into the December 2000 killing of sports broadcaster Geral Denoze. Investigations into the April 2000 killing of prominent radio commentator and journalist Jean Dominique and a security guard continued during the year, with a large gap between the resignation of one investigating judge and presidential appointment of a successor (*see* Section 1.a.). Local and international human

rights groups frequently criticized the slow pace of the Dominique investigation. On the evening of December 25 in Petionville, armed men attempting to enter the home of Michele Montas, Dominique's widow, shot and killed Maxime Seide, her bodyguard. Bernard Sainvil, the judge investigating Dominique's murder, had previously announced that he would submit his findings in December. By year's end, he had not yet sent his report to the district attorney.

On November 21 members of the paramilitary group "Cannibal Army," after pelting student protestors with stones, chased a group of seven journalists into the local bishop's residence (see Section 2.b). Gonaives police did not intervene. On November 26, after threatening to do so, Metayer supporters set fire to Radio Etincelle, where three of the journalists worked. On November 28, in coordination with the Government, the President of the Association for Haitian Journalists, Guy Delva, other journalists, and CIMO police units accompanied the seven journalists out of Gonaives. They subsequently went into hiding, where they remained at year's end.

On July 15, Israel Jacky Cantave, a Radio Caraibes journalist, and a colleague disappeared in an apparent kidnaping. Cantave and his severely beaten associate reappeared after a full day of public and government outcry. Cantave and his family left for France shortly after his reappearance, citing continued threats. In mid-August police reported their investigation did not support Cantave's account, suggesting the kidnaping had been a hoax. The authorities have filed no charges of kidnaping or filing a false report but the case remains open.

Foreign journalists generally traveled without hindrance from the authorities. The Government did not censor books or films. However, on September 18 special police forces shut down an open-air concert of the popular music group, Boukman Eksperyans, as it began a song critical of the Government.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom. However, in August some State University of Haiti students protested the appointment of interim rectors, saying the Government exerted too much political influence over the university (see Section 2.b.).

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly. Although a variety of organizations were able to exercise this right without hindrance throughout the year, numerous violations of this freedom occurred in the provinces. CIMO was routinely accused of using excessive force against demonstrators (see Section 1.c.). Civil society groups were sometimes refused permits to assemble, most often in Central Plateau department. Authorities frequently failed to provide security for opposition parties or other groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators.

On June 4, the HNP severely beat dozens of demonstrators demanding access to electrical services. On July 27, when armed men (including a CASEC) disrupted a meeting of farmers in the town of Torbeck, police reacted by arresting several of the farmers. In early September, CIMO agents in Mirogoane shot two people and used tear gas on residents demanding public services such as electricity, potable water, and better roads and telephone service. On September 2, CIMO agents used batons to beat demonstrators demanding compensation for losses at failed cooperatives in Port-au-Prince.

In several cases, police inaction allowed organized political militants to violate freedom of assembly rights, and there were numerous violent political demonstrations (see Section 1.a.). On August 14 and 22, groups with pro-Aristide banners and leaflets attacked students demonstrating against the replacement of the rector and vice-rectors of the State University of Haiti. Police present at the scene of the attacks did nothing to prevent or end these attacks. In September the OP Bale Woze, known for attacks on political opponents of FL and led by Saint Marc Parliamentary Deputy Emmaus Maillet, announced it would not permit any anti-FL demonstrations in Saint Marc. A few days later, pro-FL supporters repeating that sentiment in Gonaives clashed with opposition protestors. Eight opposition demonstrators were shot in the ensuing violence.

On November 17, antigovernment demonstrations commemorating the Battle of Vertieres in Cap Haitien peacefully protested government policies and called for President Aristide's departure. Police units protected the participants from groups of progovernment supporter harassment. On November 18, armed members of the FL informed government employees who had participated in anti-Aristide demonstrations, that, in contravention of labor laws, they had been fired.

In Petit Goave on November 20, police shot and injured eight students initially protesting school fees, corruption, and lack of public services and later denouncing the FL government and calling for President Aristide's departure. Police shot one

of the students. On November 21, anti-Aristide student protestors in Petit Goave, Gonaives, and Port-au-Prince called for his resignation. Police in Petit Goave and Port au Prince attempted to maintain order and protect the demonstrators. In Gonaives, pro-FL members of the paramilitary group "Cannibal Army" threw rocks at the students and chased a group of seven journalists into the local bishop's residence (see Section 2.a.). Gonaives police did not intervene.

On November 22, pro-FL supporters blocked main roads in Port-au-Prince with barricades, flaming tires, and parades, effectively halting all business and educational activity. Police and other vehicles bearing official plates passed the roadblocks, and other vehicles were stopped and shaken down for money.

Having obtained the necessary permit, several groups of opposition members in Port au Prince scheduled an anti-government demonstration for December 3, the anniversary of Brignol Lindor's murder. By 9 a.m., pro-Aristide supporters, some armed with guns or bullwhips, occupied the location of the proposed march, beat some would-be participants and threatened others. The scheduled commemorative march did not occur. At the State University of Haiti, BS police units beat some students, two of whom were hospitalized. On December 3 in Cap Haitien, pro-FL supporters attempted to halt anti-Aristide demonstrations by throwing rocks and bottles. Opposition protestors responded in kind. Police used teargas to disperse the crowd.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

c. Freedom of Religion.—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

In many respects, Roman Catholicism retained its traditional primacy among the country's religions. However, Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church with regard to active members. A large segment of the population practiced Christianity as well as Voodoo, a traditional religion derived in part from West African beliefs. While there were associations of Voodoo practitioners and priests, there was no organized hierarchy. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing and tax exempt status, and extends civil recognition to church documents. In April 2001, the Ministry of Religion officially recognized the first Voodoo church, the Eglise Vodou d'Ayiti.

Accusations of sorcery, particularly in rural areas, have led to mob violence and killings, and Voodoo practitioners were targeted in some cases.

For a more detailed discussion, see the *2002 International Religious Freedom Report*.

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

An unknown number of undocumented migrants left the country by sea or land to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries (including the Dominican Republic, the Bahamas, Cuba, and the United States) and frequently provided small sums of money to repatriated migrants for transportation. The ONM recorded 8,902 citizens formally repatriated during the fiscal year. According to the International Organization for Migration (IOM), the Dominican Republic deported approximately 500 Haitians each month. There were reliable reports of family separation and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of government mistreatment of repatriated migrants.

The law provides for granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The question of provision of first asylum did not arise. During the year, the Government took no action on its only official asylum claim, brought by a person who had deserted from a third country's army, and his family. Several claimants from Cuba and Sierra Leone were advised by police instead to seek asylum at an embassy or in the Dominican Republic. Both groups reportedly had left Haiti by year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully. In practice, the political system remained in transition from a dictatorial system to a more open and competitive one. The dominant FL political party manipulated legislative elections and exaggerated electoral participation in the 2000 presidential elections. The FL controls all branches of government, including the executive, legislative, and judicial branches. In November 2000, former President Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast. Most local and regional elected leaders were members of the FL.

Under the Constitution and electoral law, a candidate for the Senate or Chamber of Deputies must receive an absolute majority of votes cast to be elected in the first round of voting. If no candidate receives a majority, a second round runoff is required. Election observers, including the OAS, described the May 2000 legislative and local elections as generally free and fair despite irregular ballot tabulation, numerous reports of ballot theft, and significant candidate and observer intimidation. However, the CEP manipulated election results to ensure that Fanmi Lavalas won 16 of the 17 Senate seats, tabulating only those votes cast for the top four vote getters in each department rather than all valid votes cast. By setting a lower threshold for the absolute majority vote required under the Constitution, this eliminated runoff elections. The OAS Electoral Observation Mission questioned this methodology, which it characterized as a serious error.

Government refusal to correct these manipulations led to a political standoff between the FL and the opposition Democratic Convergence (CD). OAS-sponsored negotiations between the Government and opposition over the May election results continued through the summer with few results. On September 4, the OAS unanimously approved Resolution 822, delinking international economic assistance from the signing of an FL/CD accord. It called on the Government to implement previous OAS resolutions, expressed the expectation that the Government would hold legislative and local elections in 2003, and called on the Government to create a favorable security climate, implement a disarmament plan, strengthen independent police and judicial institutions in order to combat impunity, and participate in the formation of a credible Provisional Electoral Counsel by November 4 and an Electoral Guarantees Commission (CGE) by December 4. The resolution broadened the mandate of the OAS Special Mission to assist the Government in undertaking its obligations and to monitor and evaluate those efforts. By November 20, eight of the entities comprising the CEP had nominated a representative, though not officially sworn them in. Convergence had not put forth a representative. In reaction to the repression of opposition and student demonstrations on December 3, several CEP sectors considered imposing new conditions for their full participation in the CEP. OAS policy remained focused on implementation of Resolution 822, of which formation of a CEP is a key provision. By year's end neither the new CEP nor CGE had formed.

Pursuant to OAS Resolutions 806 in January, and 822 in September, the Government invited a three-member OAS special inquiry commission to investigate the December 2001 attacks on members of opposition parties. In July the commission concluded that the attack on the palace was not an attempted coup d'etat, and that the political opposition had not participated in the planning or execution of the attack on the palace. Furthermore, the commission determined that the subsequent attacks on the opposition would not have occurred without police complicity. Under international pressure, the Government agreed to pay reparations to the victims and publish a report of actions taken against persons implicated in the events. The Government's September 12 interim report was deemed insufficient to meet these requirements. By year's end, some accounts had been settled but negotiations over the amount of reparations were still ongoing for several others, including the two largest—OPL and MOCHRENA.

On July 4, police arrested Amiot Metayer a suspect in the December violence, on unrelated charges. However, on August 2, armed men attacked Gonaives prison and freed Metayer and 158 others. Since the escape, Metayer has frequently appeared in public and the authorities have not attempted to rearrest him. On November 28, the Government-appointed delegate to Gonaives, Kenaz Jean-Baptiste, resigned, days after Metayer and his supporters, the "Cannibal Army," publicly agitated for her departure. The Government replaced her with Metayer's preferred candidate, Ketlene Thelemaque.

Increasingly, affiliation with the FL was required for government employment, and political patronage was widespread. It was common for political appointees to use their positions for personal enrichment. Many of the 2,500 to 3,500 officers on the official HNP payroll were ghost officers who did not actually work.

There were fewer overt attacks on opposition leaders than in 2001, although there were numerous credible threats. The Government continued to accuse opposition supporters of plotting against the State. Members of opposition parties and their supporters faced the constant threat of arrest. In mid-February the police arrested 14 persons, most of them members of the KID political party, on charges of plotting against the State and participating in kidnappings for profit. Most remained in jail for months despite the widespread perception that the charges were without foundation.

On February 10, unknown persons killed the deputy from Gonaives, Marc Andre Dirogene, a FL member. Dirogene had written a letter to then-Prime Minister Cherestal, denouncing corruption at the Gonaives port and customs office. Cherestal reportedly sent a copy of the letter to the FL controlled port and custom authorities, where Amiot Metayer's brother has a prominent post.

On June 24, authorities interrogated 20 CD supporters, detaining 11, after unknown armed men shot and killed a family of 5 in Belladere. Observers claimed that the authorities politicized the crime to implicate CD members.

On August 22, police beat CD leader Gabriel Fortune, a former Les Cayes deputy, following a routine traffic stop.

On October 15, authorities arrested and beat two KID party members involved in an argument over public housing, but did not arrest other parties to the dispute. The whereabouts of the two men remained unknown at year's end and human rights organizations believed that they were dead.

After the November 28 shooting of Belladere Justice of the Peace, Christophe Lozama, in a clash between FL and anti-FL demonstrators, authorities targeted anti-FL protestors for questioning and arrest despite eyewitness accounts that he had been shot by FL supporters. Human rights investigators concluded that pro-government officials exploited Lozama's murder to justify political repression of opposition members in Las Cahobas (*see* Section 1.a).

There are no legal impediments to women's participation in politics or government. The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. At year's end 3 of the 81 deputies were women, and there were 6 women among the 19 senators. Five of the 16 ministers in the Government were women. During the year eight senators resigned and the deputy of Gonaives was killed.

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 acknowledged their views but often failed to implement recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the International Red Cross, the U.N. Independent Expert on Human Rights, the U.N. Development Fund, the Inter-American Commission on Human Rights, and the OAS Special Mission's human rights office. However, threats and intimidation from unknown sources against domestic NGOs continued during the year.

The number of groups that monitor human rights has grown. Human rights organizations increasingly turned to issues that they had not previously addressed, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempted to control and sought financial support from domestic human rights groups, as well as other local NGOs. Especially in Gonaives, the Les Cayes region and in the Central Plateau, local officials and their supporters often harassed, refused permits to assemble, and threatened NGOs. Some government officials resented international grants to NGOs and asserted that those monies should be available to the Government.

In January, Patrick Merisier, a field monitor covering the south for the NCHR received leaflets at his home, warning that he would be killed if he did not stop his human rights monitoring and radio broadcasts about the subject. On February 22, two men shot Merisier, and he went into hiding. Authorities have not opened an investigation into the case.

On July 24, two HNP and three armed civilians illegally arrested human rights attorney Fleury Lysias, who was beaten when he refused to pay for his release. Upon learning of his human rights affiliations, Lysias' captors broke his arm and damaged his eardrum. Lysias visited the HNP's Inspector General office three times to request a formal investigation into the case. No investigation had taken place by year's end.

At the national and international levels, human rights organizations have been active and effective in monitoring human rights issues, and met frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights, the Ecumenical Center of Human Rights (CEDH) and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. All reported receiving threats as a result of their work.

In June the OAS began a Special Mission to Haiti to strengthen democratic institutions, with a primary focus on justice and human rights. The resident OAS human rights officers' mandates were limited to training in human rights and strengthening institutional capacity (see Section 2.a.).

Investigators made no arrests or progress in the 1999 attempted killing of human rights activist Pierre Esperance, NCHR country director. The HNP's investigation remained open in this case, but by all accounts was inactive.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. From September 2001 to October, the OPC received and investigated 488 complaints and resolved 50. More than half related to police abuse; the others were brought often by government employees and involved labor disputes. The Government did not directly impede OPC investigations but did not always respond to its requests for information. Local human rights organizations did not view the office as an advocate or interlocutor with the Government, and often did not file complaints with the OPC, reporting that OPC did not play an active role following up on human rights complaints. During the year, following the appointment of Necker Dessables, a respected human rights advocate, relations between the OPC and major human rights organizations such as the Platform for Human Rights and the Lawyers Committee for the Respect of Individual Rights (CARLI), improved. In addition to investigating complaints and monitoring prison conditions, the OPC conducted a number of training seminars throughout the year, focusing on civic education in schools and criminal procedure for penal system officials. The OPC had budgetary problems and employed only four investigators.

The Parliament's Justice and Human Rights Committee, created in 2000, did not have a high profile and focused largely on judicial issues during the year.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

Women.—The law provides penalties for rape and domestic violence; however, the Government did not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women was common, both within and outside marriage. Women's shelters and organizations reported that girls and women in the "quartiers populaires" (slums) like Cite Soleil and Martissant are frequently raped and harassed by local armed thugs. Police authorities rarely arrest the perpetrators or investigate the incident, and the victims sometimes suffer further harassment in retaliation. Natacha Jean Jacques, an adolescent girl from Martissant who was detained in 2000 for murder and then raped by a prison official, had previously filed a police complaint against several young men, including the murder victim, after they sexually harassed and threatened her. After her complaint to the police, the group of young men she had accused went to her house and confronted the girl. According to witnesses, Jean Jacques killed the victim with a knife that one of the men had dropped. She remained incarcerated and had not faced trial by year's end (see Section 1.c).

A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women did not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported they were victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who murders his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

The law does not prohibit specifically sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual har-

assessment of female workers was a problem, especially in the assembly sector (*see* Section 6.b.).

Women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. A majority of peasant women remain in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but were rarely enforced. Female employees in private industry or service jobs, including government jobs, were seldom promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

Children.—Government health care and education programs for children were inadequate. Malnutrition was a problem; approximately 23 percent of all children under 5 were chronically malnourished. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice most rural families had no access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school; of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes ration education money to pay school fees only for male children.

Child abuse was a problem. Radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income-generating children.

In September 2001, Parliament passed a law banning corporal punishment of children, which ordered all schools to post clearly their disciplinary policies. It also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

Port-au-Prince's large population of street children included many domestic servants (*restaveks*) who were dismissed from or fled employers' homes (*see* Section 6.f.). The Ministry of Social Affairs provided some assistance to street children.

Several international and local NGOs worked on children's issues. For example, the Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children's rights by conducting awareness raising activities.

Persons with Disabilities.—The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Given the severe poverty in which most citizens live, those with disabilities faced a particularly harsh existence even though they did not face overt mistreatment. Disabled beggars were common on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities.—Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. However, longstanding social and political animosities were often tied to cultural identification, skin color, and overlapping issues of class in a starkly nonegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attacks because they were perceived as wealthy.

The Government recognizes two official languages: Creole, spoken by virtually all Haitians; and French, limited to approximately 20 percent of the population includ-

ing the economic elite. Lack of French-language skills limited access to political and economic opportunities for the majority of the population. Although Creole was used in parliamentary debate in the Lower House of Parliament, the Government prepared most official documents only in French. Language also remained a significant barrier to full access to the judicial system (*see* Section 1.e.). Despite the Government's literacy promotion, many Creole speakers were illiterate.

Section 6. Worker Rights

a. The Right of Association.—The 1987 Constitution and the Labor Code provide for the right of association. Public sector workers are organized pursuant to Article 31 of the 1987 Constitution.

The law protects union activities and prohibits a closed shop. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (*see* Section 2.b.). The law prohibits employers, management, and anyone who represents the interests of employers from joining a union.

In theory unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the total labor force of approximately 2.8 million persons, including the approximately 2 to 3 percent working in the industrial sector. Union membership has decreased significantly, but remains active in the public sector. Some union representatives asserted that union activists not affiliated with the Government were forced into self-exile.

Several unions have pending grievances over worker rights violations against the Government before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions. These include the National Confederation of Haitian Teachers (CNEH), the Autonomous Central of Haitian Workers (CATH), and the General Independent Organization of Haitian Workers. Three major teachers' unions—the CNEH, the National Union of Trained Teachers, and the High School Teacher's Union—accused the Ministry of National Education of unfair labor practices. They accused the Education Ministry of implementing changes in a labor contract without advance notification or due opportunity to negotiate changes. Public school teachers have not yet received a 32 percent cost of living adjustment that the Minister of Education promised in 1997, and at year's end, had not received a paycheck since October.

Labor unions reported several cases of threats and arrests during the year. Leaders of several major labor confederations reported receiving threats and demands to support the Fanmi Lavalas party. In March police beat members of a textile union demonstrating for compensation after being fired. On May 27, armed supporters of San Raphael municipal authorities attacked a group of Batay Ouvriye activists attempting to organize agricultural workers and negotiate their right to exploit fallow land (*see* Section 2.a.). Two demonstrators and one local official supporter died. Police arrested 11 persons, including 2 journalists. On August 21, all but two labor union leaders, Jeremie Dorvil and Urbain Garcon, were released. They remained incarcerated until December 2, when they were freed. There was no progress in the investigation of the 2000 killing of CATH member Elison Merzilus.

On June 19, the ILO criticized the Government for not having considered the input of the union sector in selecting the June ILO conference delegation. Sector representatives asserted that the Minister of Social Affairs selected only progovernment delegates.

Union leaders asserted that some employers in the private industrial sector dismissed individuals for participation in union organizing activities. In 2000 the ILO criticized the Labor Code for its failure to include a specific provision providing protection against antiunion discrimination at the time of hiring.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right but does not provide for reinstatement of workers fired for trade union activities. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises and in the civil service. High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers was a problem in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process is inefficient. Seven labor courts operate in Port-au-Prince, and in the provinces plaintiffs utilize municipal courts.

The Labor Code provides for the right to strike, except for managers, administrators, other heads of establishments, and public utility service workers. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year. In May hospital residents went on strike to protest lack of supplies and the diversion of existing supplies to administrators. When the Government intervened and provided additional materials, residents resumed work. On November 20, emergency room workers at Port-au-Prince's only public hospital, the Hospital of the State University of Haiti, went on strike protesting a lack of security. That day an armed person entered the emergency room, and searched for and killed a patient admitted the previous evening. The strike was ongoing at year's end and surgical, physician and nursing services had completely stopped.

There were no export processing zones. However, the Government's 5-year economic program calls for the creation of two export processing zones, one in Cabaret and another in Cap Haitien. The Government passed legislation governing free trade zones, and signed an agreement with a Dominican textile company to build a production facility in a newly established free trade zone on the border near Ouanaminthe. Batay Ouvriye vehemently opposed the project and progress has stalled pending legislative authorization of the land concession. The authorization had not been granted by year's end.

c. Prohibition of Forced or Bonded Labor.—The Labor Code prohibits forced or bonded labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households under conditions that amount to slavery (*see* Sections 5 and 6.d.).

Most Haitians who work in the Dominican Republic went there freely; however, there were cases of trafficking rings coercing Haitian workers to work in Dominican sugar cane fields. Internal trafficking in children as restaveks was the most serious problem (*see* Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and prohibits night work in industrial enterprises for minors under 18. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. The Labor Code prohibits forced and bonded child labor; however, forced child labor was a problem (*see* Section 6.c.). Government agencies lack the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as domestic servants (restaveks); however, some worked on the street as vendors or beggars, and some were involved in prostitution (*see* Sections 5 and 6.f.).

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government did not devote adequate resources and oversight to child labor policies. The budget for the entire Ministry is far below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce

child labor policies. The Government signed a Memorandum of Understanding with ILO/IPEC (International Program for the Elimination of Child Labor) in 1999. IPEC began a Child Labor Project in January 2000, scheduled to end in December, and developed a framework of action focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor. A much-lauded government-sponsored hot line for children in crisis operated only during regular business hours and had limited resources and access to safe shelters. In August NCHR-New York inaugurated a program to prevent the *restavek* practice, improve living conditions for and rescue these children, and reintegrate them into society (see Section 6.f.).

The Government has not ratified and does not adhere to ILO Convention 182 on Child Labor. It has not defined "worst forms of child labor" or "hazardous work."

e. Acceptable Conditions of Work.—The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage was insufficient to provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. Working conditions were also generally better in this sector. There were no reports of child labor in this sector.

There was no formal data, but unions allege that job-related injuries were prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons, and internal trafficking of children was a problem. Haiti also was a country of origin for trafficked children. Haitians trafficked overseas were sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. In August UNICEF reported that between 2,000 and 3,000 Haitian children are trafficked to the Dominican Republic each year. The findings are the result of a joint UNICEF/International Organization for Migration (OIM) study. However, most trafficking occurs within the country's borders and involves children. Children were primarily trafficked for labor, but some were trafficked for purposes of prostitution.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called "*restavek*" ("lives with" in Creole), and frequently received financial compensation. The practice of sending children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While some *restaveks* received adequate care including an education, the Ministry of Social Affairs believes that many employers compelled the children to work long hours, provided them little nourishment, and frequently beat and abused them. The majority of *restaveks* worked in homes where the yearly income was very low, so conditions, food, and education for nonbiological children were not priorities.

In a 1998 study, UNICEF estimated that 250,000 to 300,000 children were victims of this form of servitude, although a government-supported study reported only 90,000 to 120,000 *restaveks*. UNICEF reported that the average *restavek* was between 11 and 14 years of age; however, more than 20 percent were between the ages 4 and 10, and 85 percent were girls. Rape by host family members was reported by 23 percent of these girls, 15 percent of whom became pregnant. Nearly 77 percent of all *restaveks* had never attended school. Among those who had, only 2 percent reached secondary school. The law requires that *restaveks* 15 years of age and

older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismiss many *restaveks* before they reach that age.

Most local human rights groups did not consider this practice abuse nor did they work to improve the situation of *restavek* children. The Ministry of Social Affairs claimed little power to stop this practice, which it regarded as economically motivated and citing a lack of financial resources, no longer employed monitors to oversee the welfare of *restavek* children. Society held such children in little regard.

The Government acknowledged the problem of internal trafficking and took steps to address it, despite severe resource constraints. The Government devoted the bulk of its entire social welfare budget to combating the trafficking of children. For example, the Government ran a media campaign to prevent the mistreatment of children and maintained a hot line for victims. However, these efforts resulted in the removal of less than 200 children from abusive households during the year. Government officials placed rescued victims in shelters and in the care of local NGOs. The ILO, at the Government's request, is developing a framework to address the gap between practice, national legislation, and international standards with regard to combating trafficking in children. There was no evidence that the authorities were complicit in trafficking.

HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected by separate ballot for 4-year terms. The multiparty political system is dominated by two traditional parties, the Nationalists and the Liberals. In November 2001, voters elected Ricardo Maduro of the Nationalist Party president in elections that domestic and international observers judged to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. A 1999 constitutional amendment established direct civilian control over the armed forces through a civilian Minister of Defense. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In 2001 the Organic Law of the Armed Forces solidified civilian control over the military, a process that took a decade. The National Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The Ministry of Public Security oversees police operations, and the police are responsible for all public security issues. The military are authorized to support law enforcement activities with police upon presidential directive. During the year, nearly half of all military personnel were assigned continuously to joint patrols with police to prevent and combat high levels of criminal and gang activity. The civilian authorities maintained effective control of these joint security forces. The police committed most human rights abuses during the year; however, the military committed abuses in the past.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 6.5 million. Approximately 33 percent of the labor force works in agriculture, followed by 24 percent in commerce, and 15 percent in manufacturing. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry and remittances from citizens living abroad, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. Economic growth remains muted due to record low worldwide coffee prices and sluggish activity in the maquiladora sector. The Central Bank estimated growth for the year at 2.0 percent. About two-thirds of the country's households live in poverty, and 40 percent of the population lives on less than \$1.00 per day.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the police committed extrajudicial killings. Well-organized private and vigilante security forces were believed to have committed a number of arbitrary and summary executions. Human rights groups accused former security force officials and the business community of colluding to organize "death squads" to commit extrajudicial, summary, and arbitrary executions, particularly of youth. Security force personnel beat and otherwise abused detainees and other persons. Prison conditions remained harsh, and detainees generally did not receive due process. There was considerable impunity for mem-

bers of the economic, military, and official elite. A weak, underfunded, and often corrupt judicial system contributed to human rights problems. Although the courts considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were few, if any, convictions. While no senior government official, politician, bureaucrat, or member of the business elite was convicted of crimes, a number were under investigation during the year. The Government removed or demoted some military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. With the full implementation of the new Criminal Procedures Code and an oral accusatory system, lengthy pretrial detention in new cases was less common than in the past; however, cases from previous years remained subject to delays. On occasion the authorities conducted illegal searches. Other human rights problems included violence and discrimination against women, child prostitution, abuse of children, discrimination against indigenous people, and trafficking in persons. The Government did not enforce effectively all labor laws. Many workers in the private sector were forced to work unpaid overtime. Child labor was a problem, particularly in rural areas, in the informal economy, and in some export agriculture, but generally not in the export-processing sector. Honduras was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government agents; however, members of the security forces were suspected of direct involvement in approximately 24 of the estimated 1,250 extrajudicial, arbitrary, and summary killings of youth under age 22 and minors from 1998 to June.

There was a slight improvement in the Government's ability to investigate or prosecute suspects in the killings of children and youth. According to the nongovernmental organization (NGO) Casa Alianza, information on murders collected from press reports show that the average number of killings of children and youth through June increased by 16 percent over the first 6 months of 2001, rising from 197 to 230 murders. During the first 6 months of the year, the average number of killings of children by firearms increased 46 percent from 52 minors in 2001 to 76 in 2002. During the year, no perpetrator was identified in an average of 60–70 percent of the killings; gangs were suspected in 15–20 percent of killings; police, private guards, or neighborhood vigilante groups were suspected in 5 percent of killings, and 10–15 percent of killings were drive-by shootings usually involving a truck, often without license plates. A majority, but by no means all, of the victims were gang members. According to Casa Alianza, 549 children and youth age 23 and under were killed during the year.

In April unknown persons killed two youths and an adult in a sugar cane field outside San Pedro Sula after they were forced into a gray pickup by six heavily armed men dressed in bullet proof vests and showing police identification. One of the youths was suspected by police of gang activity. On May 12, assailants armed with AK-47s who were driving a red pickup in Tegucigalpa, shot and killed two youths, ages 18 and 21, with no known gang or criminal background and wounded three other persons. On September 25, a group of armed men in a pickup murdered five youths in Tegucigalpa, mimicking a 1995 torture and murder of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (*see* Section 1.c.).

In a January report on violent deaths of children and youths, the National Human Rights Commission, an autonomous government agency, reviewed the evidence and interviewed youths in detention who had been threatened or who had survived an attempted killing. Those who survived attacks identified the perpetrators as police or as heavily armed older men in vehicles who would either confuse the victims with gang signs or ask victims to take off shirts to show whether the victims had gang-related tattoos. In early September, the Ministry of Public Security established a special investigative unit on child murders to follow through on cases. Casa Alianza provided information on 15 cases of murders of minors in which police were suspected of involvement. As a result of the investigations, in October the authorities arrested Walter Enrique Moncada Duarte, a former policeman, for the 1999 murder of minor Alexander Reyes. In September the IACHR Special Rapporteur for Children visited the country to review the situation of extrajudicial, arbitrary, and summary killings of youths and children. In September the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a re-

port based on her August 2001 visit that claimed that security forces were involved in covering up their involvement in some of the summary killings of youth and children, and that some of the murders involved police. In October a special inter-agency Presidential Commission, consisting of the Ministry of Justice and government, the Attorney General, the Institute for Family and Children, the Human Rights Commission, and the nongovernmental Institutional Coordinator of Child Rights Group issued a report that identified 574 cases of summary killings of minors and 18-year-olds, of which 140 occurred in the first half of the year and 276 occurred in 2001. Despite increased attention to the problem by the Government, perpetrators of killings against youth and minors continued to act with impunity.

Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members, as well as against other youths not known to be involved in criminal activity. Several groups and families of the victims pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders with regard to these murders. The Ministry of Public Security, which was the focus of human rights criticism, publicly denied accusations that the police force as a whole was involved in extrajudicial killings, although it acknowledged that individual police had been investigated for participation in extrajudicial killings.

In September the Director of Internal Affairs of the police force announced that she would continue investigating high-level officials whom she alleged had been involved either directly or indirectly in at least 20 extrajudicial killings, not necessarily of youths, over the previous 4 years (*see* Section 1.c.). During the year, the authorities sought or detained a number of police officials for their involvement in the killings of various individuals, some of whom were minors. There is an outstanding arrest warrant for police officer Juan Carlos Bonilla who is wanted for suspected involvement in an extrajudicial killing. At year's end he had not been arrested.

On August 26, presumed members of an organized crime gang, the Barrera Herrera brothers, killed human rights activist Jose Santos Callejas, treasurer of the local office of the national NGO Human Rights Committee, in his home near the city of La Ceiba. Preliminary investigations indicated that the gang had threatened Callejas after he positively identified them to the police as having committed a murder. Police authorities and the Human Rights Committee were investigating the involvement of individual police officers in Callejas' killing. At year's end, no suspects had been captured.

In May a minor died in custody, supposedly of asthma. He showed signs of mistreatment, and there was no autopsy. The Ministry of Public Security reported that the minor had been in the custody of the Public Ministry. No action had been taken by the end of the year. In May prison guards shot and killed three prisoners during a prison riot between gangs and the regular prison population in Choluteca. There were a number of other deaths due to prison violence (*see* Section 1.c.).

There were no developments in the February 2001 murder case of the son of a Potrerillos, Cortes department, mayoral candidate and his friend.

There was no more information on the November 2001 case of police involvement in the killing of the Chorti indigenous person Isidro Geronimo during a demonstration.

At year's end, no suspects were under arrest for the November 2001 murder of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

In April the courts sentenced policeman Cesar Montoya to 6 year's imprisonment for the January 2000 killing of 17-year-old Edie Donaire. Police agents illegally detained the boy, handcuffed him for 2 days, and shot him in the legs when he attempted to escape. He then bled to death. This was the first sentence imposed for the murder of a minor since tracking of the youth killings began in January 1998. However, Casa Alianza protested what it alleged was a light sentence. In September the courts sentenced a policeman to 24 years in prison for the 1995 rape and murder of a 14-year-old street child. These two sentences signaled a reversal in the trend of impunity for police officials in extrajudicial killings.

Approximately 20 active and former military and police officials continued to face criminal charges on human rights abuses during the 1980s in various courts during the year. Most officials were accused of illegal detention and murder because disappearance is not a crime under the new or previous criminal codes (*see* Section 1.b.). Human rights abuses committed before March 1985 are adjudicated under the 1906 Criminal Code. Crimes after that date were prosecuted and judged under the new Criminal Code as revised in 1997 and 1999. Courts do not accept cases if the body of the victim has not been recovered and positively identified. An identified

body allows families and human rights organizations to bring a case of suspected human rights abuse to court. There were no exhumations of clandestine graves during the year. Human rights organizations believed that more uncovered graves do exist; however, they need to have sufficient evidence to identify the buried bodies in suspected graves to improve the likelihood of successful prosecution. Human rights organizations continue to seek information using grass-roots contacts and other sources outside the Government that would lead to exhumations that would advance prosecutions.

In May and July, police arrested Jose Angel Rosa and Jorge Adolfo Chavez Hernandez, a former member of Battalion 3-16, for the 1998 murder of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. The arrests occurred after both the prosecuting attorney and judge in the case received death threats. In May the local judge resigned from the court because of these death threats. At the end of the year, former security official Jose Marcos Hernandez Hernandez and two other suspects remained at large. One other suspect in the murder, Oscar Aurelio "Machetillo" Rodriguez Molina, remained in prison at year's end.

Various witnesses, survivors, and former HOAF personnel charged that members of the now-disbanded army Intelligence Battalion 3-16 kidnaped, tortured, and killed many of the 184 persons who disappeared during the 1980s. The Public Ministry was not able to bring new cases to court due to lack of evidence (*see* Section 1.b.).

There was no action in the 1988 political murders of social activists Miguel Angel Payon and Moises Landaverde; in 2000 a court issued an arrest warrant for suspect Jaime Ramirez Raudales, also known as Jaime Rosales, a former member of Battalion 3-16; however, he remained at large at year's end. Mario Astrubal Quinonez, another suspect in the murders, was presumed dead after a 1998 hurricane swept away the neighborhood where he lived.

The 1982 case of Nelson MacKay Echevarria and Miguel Francisco Carias is one of the best-documented cases and includes witnesses; however, charges against both of the retired officials accused in the case were dropped. In 2001 a judge dismissed charges against retired Colonel Alexander Hernandez Santos due to insufficient evidence for the illegal detention and murder of MacKay, as well as charges stemming from the kidnaping of Carias, who was found alive next to MacKay's corpse (*see* Section 1.c.). In January Hernandez Santos was released from prison when charges in the Avilez and Espinoza case were dismissed temporarily and charges in the illegal detention and attempted murder of six university students were reduced (*see* Section 1.c.). Charges against retired Major Manuel de Jesus Trejo Rosa were dismissed and Trejo Rosa was released from prison in 2001.

No information was available regarding the Public Ministry's appeal to reinstate charges against retired General Daniel Bali Castillo and retired Colonel Manuel Enrique Suarez Benavides for the 1982 deaths of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz. In January Alexander Hernandez Santos, also wanted for involvement in the murders, was freed on bail due to a lower court's decision. In May the appeals court overturned the lower court's decision and reissued an arrest warrant for Hernandez Santos, who was also implicated in the MacKay murder and the kidnaping of six university students (*see* Section 1.c.). At the end of the reporting period, Santos remained at large. In early May, the Choluteca district court reissued a 1996 arrest warrant for Juan Evangelista Lopez Grijalba, but subsequently rescinded it in late May for lack of evidence. The Public Ministry appealed the decision, but the appeals court upheld the lower court's decision. The Public Ministry then appealed the appeals court ruling to the Supreme Court, where it was pending at year's end. The case against former police Major Marco Antonio Matute Lagos was dismissed for lack of merit in 1999.

Former security officials Jose Marcos Hernandez Hernandez, Dimas Carvajal Gomez, German Antonio McNeill Ulloa, and Juan Blas Salazar Meza remained in custody during the year to begin trial proceedings for the 1982 murder of student activist Luis Manuel Figueroa in Choluteca department. On April 22, Salazar Meza turned 60 and thus was eligible to be transferred to house arrest. He was released from prison after paying a \$3,000 (50,000 Lempiras) fine on an unrelated drug trafficking conviction. The case went to full trial review, and the four officials were awaiting sentencing at the end of the year. Salazar Meza also was questioned for his involvement in the kidnaping of six university students (*see* Section 1.c.).

In the July 1982 murder case of university student Hans Madisson, the Public Ministry requested that the Canadian government provide testimony of witnesses who had fled the country and applied for asylum in Canada. At year's end, the Public Ministry had not received a response to the request for further DNA testing to identify positively the body and to continue the case against Captain Billy Joya Amendola, which was dismissed for lack of evidence in May 2001. There was no in-

formation available regarding the Public Ministry's appeal of a 1999 ruling by a lower court that found former army Chief of Staff Oscar Hernandez Chavez not guilty in the same case.

During the year the Public Ministry charged Jose Barrera Martinez, a witness in cases related to Billy Joya Amendola and Alexander Hernandez Santos, with providing false testimony. Barrera rescinded his original written testimony regarding clandestine graves and human rights cases, which he used to request asylum in Canada. When Barrera was deported from Canada in 2001, he declared that his original testimony was false, even though that information led to the uncovering of clandestine gravesites.

Violent crime continued to fuel the growth of private, often unlicensed guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. During the year there was an average of 3 to 10 violent deaths per day. Vigilante justice led to the killing of known and suspected criminals, as well as of youth in gangs, street children, and youth not known to be involved in criminal activity (see Section 5). Neighborhood watch groups called Citizen Security Councils (CSCs) originally were authorized by a previous Minister of Security, and some of them were accused of taking the law into their own hands. Human rights groups criticized the CSCs, which they viewed as active participants in the increasing number of unlawful and summary killings. Human rights activists continued to state publicly their belief that some of the CSCs, as well as private security companies with ties to former military or police officials, were acting as vigilantes or death squads, especially targeting youth, with the tacit complicity of the police. According to human rights groups, the CSCs with the greatest number of incidents of violent deaths committed by vigilante committees were in the municipalities surrounding San Pedro Sula. The Ministry of Public Security announced that it would work with city officials to assure that vigilante committees not operate with official support. In June the Ministry of Public Security announced that all arms, including those of private security firms, would have to be registered.

In September the Attorney General declared that violent deaths overall were 10 percent less than the previous year. He rejected the idea that death squads were involved in killing youth and children; however, he acknowledged that individual police and vigilante groups were involved in some killings.

Several "murders for hire" occurred during the year, usually related to land disputes or criminal activities. In April four landless farmers were killed and one guard was injured when the farmers attempted to take over land also claimed by a subsidiary of an international company. There was no information on the proceedings at year's end.

No more information was available regarding the 2001 murders of the Peralta Torres family, farmers' cooperative president Felix Roque, or Carlos Flores, nor the suspicious death of farmers' cooperative president Jose Antonio Santos Lopez. There were no developments in the 2000 murder cases of social activist Jairo Amilcar Ayala Nunez; community leader Ruben Elvir; forestry cooperative officials Marciano Martinez Ramirez and Victor Manuel Almendares; or of the 2000 murders of Concepcion Alvarez and his family, Copan mayor Hugo Alvarado, or the 1999 murder of Cabanas mayor Juan Ramon Alvarado—all of whom were killed in land disputes.

No more information was available on the March 2000 murders of Chorti indigenous Vicente Ramirez, Enecon Ramirez, Antonio Garcia, and Domingo Mejia.

The October 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and murder by police of four youths in 1995 remained under investigation by the Commission at the end of the year. During the year, Casa Alianza appended a 1998 case to the 1995 IACHR complaint for the torture and murder of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission.

In December the authorities reported that gang members killed at least 10 police officers during the year. On November 17, members of a gang shot and killed a police investigator near his home in Comayagua. A search led to the capture of 5 gang members in possession of a list containing the names of approximately 20 police officers that they had allegedly planned to kill in the next few days.

b. Disappearance.—The law does not prohibit forced disappearance; however, there were no reports of disappearances during the year.

There were no developments in the June 2001 case of former guerrilla Rigoberto Martinez Lagos. He was seen last leaving his house in Tegucigalpa to meet a police investigative agent regarding a stolen car. According to human rights groups, when his wife called the telephone number that he had provided, she spoke with police who assured her that he would return.

In cases where significant information is available, but no body has been identified, the Public Ministry's Human Rights office attempts to uncover evidence that

could lead to clandestine graves. During the year, the Public Ministry requested information on the 1988 disappearance of student activist Carlos Roberto Velasquez Ilovares from the HOAF, but the Ministry found nothing. Only a few bodies were found of the 184 persons who have been documented as disappearances. There was no change in status in the 1988 disappearance of Roger Gonzalez Zelaya or the 1981 disappearance of Jose Eduardo Lopez.

There were no exhumations during the year. The courts adjudicated some pending cases involving political disappearances from the 1980s as murders (*see* Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained problems.

The police force, which includes the Preventive Police and the Criminal Investigative Unit (DGIC), is subject to investigation by the Internal Affairs office regarding illegal activities. The Internal Affairs office reports to the Attorney General's office, where a decision is made either to prosecute the offender or to return the case to the Minister of Security for administrative action. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions. During the year, the Minister of Security moved the OPR to a limited access area, which drastically reduced the number of complaints that individuals lodged against police during the year.

The Ministry of Public Security fired more than 300 police personnel in both the DGIC and the Preventive Police for corruption, criminal activity, and abuse of authority. During the year, the Organic Police Law was enacted, which allows security officials and agents to be fired without requiring proof of incompetent, corrupt, or abusive behavior. In September the Director of Internal Affairs of the police force announced that high-level officials had been involved either directly or indirectly in at least 20 extrajudicial killings of presumed delinquents (*see* Section 1.a.). At the end of the reporting period, the Attorney General's office had begun bringing some cases to prosecution. During the year, the Public Ministry also investigated complaints of prison abuse.

A public feud between the Public Ministry and the Security Ministry continued to create friction. While local prosecutors were able to work in police stations, they did not always maintain good relations with the police investigators.

No more information was available regarding the three army officers who were under investigation for having beaten and threatened eight recruits in 2000.

In June 2000, the Supreme Court ruled that illegal detention and attempted murder, of which some military officials were accused, were not covered by the 1987 and 1991 Amnesty Laws, a ruling that allowed for the criminal prosecution of military officers accused of the 1982 kidnaping and torture of six university students (*see* Section 1.e.). As a result of the ruling, amnesty laws were no longer applicable in this case for: Alexander Hernandez Santos, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, retired Captain Billy Hernando Joya Amendola, retired General Amilcar Zelaya Rodriguez, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Colonel Julio Cesar Funez Alvarez.

In November 2001, the court reduced the charges faced by retired Colonel Alexander Hernandez Santos to illegal detention only, and dropped the charges for attempted murder, for his participation in the kidnaping and torture of six university students in 1982. In January Hernandez was released from prison; however, he is wanted in the 1982 Avilez and Espinoza murders (*see* Section 1.a.). At year's end, Juan Blas Salazar Meza was under house arrest and being questioned for his participation in the illegal detention of the six students. He did not qualify for bail because he was awaiting sentencing in the 1982 murder of Luis Miguel Figueroa (*see* Section 1.a.). At year's end, retired Captain Billy Joya Amendola was free on bail while awaiting further questioning. In May the District Attorney's office requested that the court issue arrest warrants for two retired colonels, Juan Evangelista Lopez Grijalba and Julio Cesar Funez Alvarez, in the case of the six university students, but the courts had not issued the requested arrest warrants by year's end. Retired General Amilcar Zelaya Rodriguez, the owner of the property in the Amaratoca Valley of Francisco Morazan department where the 1982 incidents occurred, was under house arrest at year's end, under charges of complicity. During the year there was an outstanding arrest warrant for Roberto Arnaldo Erazo Paz. Manuel de Jesus Trejo Rosa was released on bail in 2000. Charges against Jorge Antonio Padilla Torres were dropped in 2001 due to lack of evidence. All charges

against Juan Ramon Pena Paz were dropped; he was accused wrongly because he shared the same last name as another suspect.

The Public Ministry's appeal of the decision to drop charges against Alexander Hernandez Santos and Manuel de Jesus Trejo Rosa for the 1982 kidnaping of Miguel Francisco Carias was pending at year's end (*see* Section 2.a.).

Police occasionally used force against demonstrators; in May and in August, a number of persons were injured (*see* Section 2.b.).

In May the December 2001 Police and Social Order Law took effect. The new law defines the different roles of national and municipal police and describes the activities that police undertake. The law outlines when police can use force and when they should assist citizens, limits how demonstrations can be carried out (*see* Section 2.b.), gives authority to police to remove landless farmers who take over land, and defines public order. It allows prostitution, but outlaws brothels, madams, and pimps, while offering rehabilitation (*see* Section 5). The law permits police to detain gang members, drunkards, truants, and vagrants without warrants, and to fine parents who deny education to their children. During the year, police carried out two operations in June and September in which they rounded up 200–300 minors and adults loitering in the streets and detained them for a day, putting the adults to work on street cleaning. Human rights and gay rights organizations criticized the new law, alleging that it restricted freedom of assembly.

In a number of instances, the security forces actively dislodged farmers and indigenous groups from lands in dispute. Sometimes this government action was legitimate, because the National Agrarian Institute (INA) did not substantiate the farmers' and indigenous groups' claims under land reform laws or ancestral titles. In other cases, the action taken in support of local landowners who exercised undue influence over local security officials, including in some cases obtaining a legal order when the justification for the order was questionable (*see* Sections 1.a., 1.f., and 5).

The police forces are underfunded, undertrained, and understaffed, and corruption is a serious problem. There is widespread public frustration at the inability of the security forces to prevent and control crime. During the year, under the new administration, police and military jointly patrolled the streets and petty crime fell significantly. While gang violence and intimidation on the streets declined, gangs continued to intimidate, threaten, and rob passengers on public transportation. Kidnapings of the wealthy and well-known continued at the same rate as in 2001, but more perpetrators were identified and prosecuted compared with the previous year. While investigation into crimes improved during the year, the public continued to believe that corrupt security personnel were complicit in the high crime rate (*see* Section 1.a.).

The Law of the Rehabilitation of the Delinquent establishes regulations for prison conditions, including minimum conditions of sanitation and security for prisoners; however, prison conditions were harsh and prison security was poor. The Ministry of Public Security maintains prison facilities. Retired military officers work as guards in some areas, and some Preventive Police are used as guards. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape by other prisoners. Pretrial detainees generally were not separated from convicted prisoners. The 24 penal centers held over 12,500 prisoners, more than twice their intended capacity; more than 88 percent of all prisoners were pretrial detainees (*see* Section 1.d.). Prison escapes, through bribery or other means, remained a frequent occurrence. In May prison guards shot and killed three prisoners in a prison riot between gangs and the regular prison population in Choluteca. About 3 percent of prisoners were thought to be gang members.

Prison disturbances, caused primarily by harsh conditions and intergang violence, occurred throughout the year in the larger facilities of San Pedro Sula, Tegucigalpa, and Choluteca. A number of gang members were killed in prison, reportedly by other gangs. In January convicted kidnaper Javier Cruz was found hanged in his cell in San Pedro Sula; a criminal court was investigating the incident at year's end. There were no developments in the two San Pedro Sula prison hangings from 2001. During the year, prison authorities continued to move prisoners of opposing gangs into different facilities to reduce intergang tensions and violence.

More often than not, for lack of alternative facilities, wardens housed the mentally ill, although there is a National Mental Hospital, and those with tuberculosis and other infectious diseases among the general prison population. In July the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using excessive force against prisoners. Practices reported include beatings, isolation, threats, electric shocks, and immersion in water.

A 2001 National University's Medical College study reported a 7 percent HIV/AIDS infection rate among prisoners. Male prisoners with money routinely bought

private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about \$0.50 (8.13 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food.

During the year, the warden of the Tela prison who was accused of abusive treatment was moved to a different position.

The NGO Human Rights Committee continued government-funded programs to train police and prison personnel to avoid committing acts of torture, to train and rehabilitate prisoners, and to arrange for periodic inspections of prisons. The Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and Their Families provided health and social services to prisoners in the main penitentiary in Tamara.

The Government delayed its plan for a model prison farm due to budget constraints.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges. Four percent of the prison population was female. Children up to age 2 can live with their mothers in prison.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. Although there was a lack of juvenile detention facilities, minors were detained infrequently in adult prisons. In May a minor died of asthma while being held in an adult cell (*see* Section 1.a.). Casa Alianza reported that the Government responded quickly to complaints of minors in adult prisons and no longer routinely housed juvenile offenders in adult prisons. The Government and Casa Alianza agreed to earmark \$182,000 (3 million lempiras) compensatory payments under an IACHR agreement to assist juvenile offenders. Approximately 24 of the 300 juvenile offenders who served time in adult prisons from 1995 to 1999 were compensated.

There were no developments in the Casa Alianza complaint to the Inter-American Court of Human Rights regarding four minors tortured in a Comayagua prison in 1990.

The Government generally permitted prison visits by independent human rights observers. The 2001 order by the General Director of Prisons barring access to district attorneys had not been implemented by the end of the year.

d. Arbitrary Arrest, Detention, or Exile.—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally failed to observe these prohibitions. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only petty crimes. The police must bring a detainee before a competent authority within 24 hours; the judge or district attorney then must issue an initial, temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. Less stringent rules of detention apply when the police catch a suspect in a criminal act; in that case, the authorities may hold a suspect for up to 6 days before a temporary holding order is issued.

While bail is legally available, it is granted primarily for medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (*see* Section 1.e.). Lengthy pretrial detention was a serious problem; during the year, an estimated 88 percent of the prison population was awaiting trial and sentencing (*see* Section 1.c.).

The 1996 Unsentenced Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time in detention exceeds the maximum prison sentence for the crime of which he is accused. However, the antiquated criminal justice system, judicial inefficiency and corruption, and lack of resources clog the criminal system with pretrial detainees, many of whom already have served time in prison equivalent to the maximum allowable for the crime of which they were accused. In April 2000, the Government estimated that as many as 3,017 prisoners qualified for release under the Unsentenced Prisoner Law, that 3 officers were required to monitor each detainee, and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras). The Criminal Procedures Code that went into full effect in February limits pretrial detention to 1 year if the greatest penalty for a crime is less than 6 years and to 2 years if the penalty for the crime is 6 years or greater. The Code is not retroactive, so individuals who have already served their sentence but whose case has not been re-

viewed will remain in jail until the judge reviews the case. Many prisoners under the old system remained in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. The new Code allows house arrest until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the terminally ill.

Neither the Constitution nor the Legal Code explicitly prohibits exile, but it was not used as a means of political control.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was poorly staffed and equipped, often ineffective, and subject to corruption. While the Government respected constitutional provisions in principle, implementation was weak and uneven in practice. A number of factors limited the effectiveness of the system. Both the judiciary and the Public Ministry suffered from inadequate funding; low wages and lack of internal controls made judicial and law enforcement officials susceptible to bribery; and powerful special interests still exercised influence and often prevailed in the courts. Many elected politicians enjoy constitutional immunity due to the privilege of their office. During the year the full application of the Criminal Procedures Code and the establishment of a new Supreme Court slightly improved the judicial system.

The Constitution provides for the right to a fair trial. This right improved in practice over the year with the full implementation of the Criminal Procedures Code. The new code establishes an oral accusatory system to replace the written, inquisitorial trial system for all new criminal cases. Trials are decided by three judges, one at each stage of the trial. The new system allows for plea-bargaining and for all indigent suspects to have appointed legal counsel. The Government began oral proceedings in May. The new code works on the basis of the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without a judicial order. Since the implementation of the new code, there was some improvement in the legal system's fairness toward those charged with crimes.

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. The rights of defendants often were not observed under the 1984 Code. Under the 1984 Code, all stages of the trial process were conducted in writing and, at the judge's discretion, could be declared secret and, thus, even less public than normal. All trials are public under the new Code.

The April 2001 constitutional amendment to restructure the Supreme Court and create an independent judiciary took effect during the year. In January a special nominating committee representing 5 sectors of civil society (one representative each from labor unions, employer associations, civil society, the bar association, and the human rights ombudsman), selected 45 nominees from more than 200 applicants for a new 15-member, seven-year-term Supreme Court. The Congress then selected 15 judges from the 45 nominees, and on January 25, the magistrates took the oath of office. The Supreme Court, in turn, names all lower court judges. There are 10 appeals courts, 67 courts of first instance with general jurisdiction, and 326 justice of the peace courts with limited jurisdiction. Human rights groups expressed concern that the 8-7 split between the Nationalist and Liberal Parties on the court was not likely to depoliticize Supreme Court appointments. In May the courts were reorganized to divide case management into two systems, one following the old, written administrative court procedures, and the other following the new, oral accusatorial method of the Criminal Procedures Code. During the year, 35 percent of 140,000 pending cases under the previous procedure were dismissed or resolved; however, no system was in place to release pretrial detainees affected by the closure of these cases. Through September the new system registered 8,000 cases, of which 800 were in trial proceedings at year's end. On November 5, the Supreme Court named a new Court of Appeals in Tegucigalpa, after having ousted the entire three-member court on October 23 in the midst of allegations of corruption and impropriety. The Supreme Court also replaced judges in San Pedro Sula who were accused of corruption.

On December 4, the Supreme Court took the first step in analyzing constitutional amendments proposed by Congress that would give Congress unfettered power to interpret the constitutionality of laws that it passes. The Constitutional Chamber of the Court asked Congress to explain why it attempted to alter the Constitution in a manner that ostensibly usurped traditional judicial authority. If the amendments become effective, the judiciary will lose its authority to construe the Constitution, and Congress will be free to interpret the constitutionality of laws with a two-thirds majority vote. In November the National Human Rights Commission filed a lawsuit asking that the Supreme Court declare the proposals unconstitutional and in violation of the separation of powers provision in the Constitution.

The new Criminal Procedures Code gave the Public Ministry the responsibility to initiate criminal proceedings but left the investigative police in charge of investigations. Under the old system, which remained in effect for crimes committed before February, judges were in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, the police, public officials, and individual citizens can initiate criminal proceedings. The lack of clear duties under the 1984 code created friction between the police and the prosecutors after the establishment of the Public Ministry in the mid-1990s.

Under the 1984 code, defendants and their attorneys were not always genuine participants in the process, despite rights accorded under law. Defendants could confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys were entitled to review government-held evidence relevant to their cases, but this right was not always respected in practice. The 1999 Criminal Procedures Code, fully implemented in February, provides defendants with additional rights that reduce their likelihood of being detained, including strict timelines for actions during the criminal process, which some critics warn may reduce the conviction rate of hardened criminals. Public officials assert that the new code will reduce the number of pretrial detainees and will establish procedures so that detainees will not be held in prison beyond their maximum prison term.

A public defender program provides assistance to those unable to afford an adequate defense. There are over 200 public defenders providing free legal services nationally to 50 percent of the prison population; however, it is difficult for public defenders to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. Under the Criminal Procedures Code cases can be dismissed if a suspect does not have legal representation. Of all oral trials processed during the year, 83 percent of defendants used public defenders. The demands placed on the public defender system severely overtaxed its resources.

A 1998 Supreme Court instruction held judges personally accountable for reducing the number of backlogged cases. The order separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense. It had little effect under the old system, but the new Criminal Procedures Code allows for plea-bargaining to reduce the caseload and to prioritize serious crimes for prosecution.

Modest progress was made in previous years toward implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and address problems of corruption, clientism, patronage, and influence-peddling within the judiciary. Nonetheless, many courts remain staffed by politically selected judges and by unqualified clerks who are inefficient and subject to influence from special interests. The reforms have not been implemented fully or effectively. Public accountability or official sanction for misconduct is minimal. However, the Supreme Court dismissed more than 19 judges on various charges, including corruption, during the year.

A special prosecutor and a judge investigating the 1998 murder of a town councilman reported receiving death threats (*see* Section 1.a.).

The Supreme Court's rulings on the 1987 and 1991 amnesty laws declared its application unconstitutional for nine military officials accused in the illegal detention and attempted murder of six university students. In 1998 the Court determined that while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits. In June 2000, the Court first ruled that laws providing amnesty protection to present and former military officials were inapplicable to common crimes, such as illegal detention and homicide, which some officials were alleged to have committed. In August 2000, the court clarified its June ruling by applying it only to the 1982 illegal detention and attempted murder of six university students (*see* Section 1.c.). It held that the amnesty laws would continue to apply to all military defendants until specific grounds for exclusion of amnesty were applied in that case. The general interpretation of the Court's rulings is that the accused cannot request amnesty until the case has been brought before a judge and the judge has begun deliberations. Thus, military officials may request amnesty, but only if the case has gone to trial. The Public Ministry has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

By the end of the year, the new Supreme Court had not yet ruled on the appeal by the defense to reduce charges of attempted murder brought against Alexander Hernandez in the case of the six university students. Two other officials received reduced sentences and were let out on bail when previous Supreme Courts ruled

that attempted murder could not be proven, thus establishing that no one could be charged with the crime (*see* Section 1.c.).

The Constitution provides broad immunity to members of Congress and government officials. Membership in both the National Congress and the Central American Parliament confers legal immunity from prosecution. That immunity extends to candidates running for office and to acts committed before taking office. An April 2000 General Law of Immunities did little to foster transparency and accountability in government. In fact, the new law requires that cases of white-collar crime brought against public officials with immunity first must be adjudicated through administrative procedures before any criminal proceedings are initiated. In addition, the new law bestows immunity to citizens upon party nomination to run for public office. The law continues to require a vote of Congress to deprive an individual of his or her immunity, although such individual may be arrested if caught in the act of endangering the life or physical integrity of another. During the year, government authorities asked Congress to remove the immunity of 34 Congresspersons and Central American parliamentarians. Only Congressman David Romero was stripped of his immunity to face charges of raping his stepdaughter. A warrant was out for his arrest, but he was at large at year's end.

Over the past 8 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also recently retired heads of the armed forces for corruption, illicit enrichment, and white collar crimes, as well as ranking officials of the three previous governments for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted. Some of these individuals maintained immunity from prosecution because they were in elected office or are running for office.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution specifies that a person's home is inviolable, that persons employed by the State may enter only with the owner's consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m. There is an exception that allows entry at any time in the event of an emergency or to prevent the commission of a crime. In May President Maduro decreed that kidnaping constituted an immediate threat, and that no arrest warrant was needed if the kidnaped person's life was in danger. In June as a result of a high profile kidnaping and murder, the Government decreed that searches could be executed without warrants and at any hour when someone's life was threatened. However, as in previous years, there were credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak; however, it improved when the prosecuting attorneys expanded their work day to include nights and weekends.

In a number of instances, private and public security forces actively dislodged farmers and indigenous groups who claimed ownership of lands based on land reform laws or ancestral titles to property (*see* Section 5). In May four farmers in Balfate, Atlantida department were killed when trying to establish a land claim on property owned by a subsidiary of a multinational company. A number of farm cooperatives experience constant threats of dislocation from local police and military authorities who support local landowners. In the past, some individuals who lost disputed lands to farmer cooperatives as a result of government adjudication killed cooperative leaders.

The Government generally respected the privacy of correspondence.

Despite reforms to the civil service system, party membership is often necessary to obtain or retain government employment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, with some important exceptions. The new Police and Social Order Law restricts demonstrators from using statements that could incite people to riot. Some journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. A small number of powerful business magnates with intersecting business interests, political loyalties, and family ties own many news media. Systemic national problems, such as corruption and endemic conflicts of interest, also limit the development of the news media. For example, of the four national newspapers, one is run by a Congressman and another is run by a former Liberal Party president.

The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials, which is crucial for news reporters, editors, and media owners. Other methods are more subtle, such as the coveted privilege to accompany the President on his official travels. Journalists who accompany the President on such occasions do so at the expense of the Government, which grants or withholds invitations for such travel at will. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The comparatively little investigative journalism that took place focused on non-controversial issues. When the news media attempted to report in depth on national politicians or official corruption, they continued to face obstacles, such as external pressures to desist from their investigations, artificially tight reporting deadlines, and a lack of access to government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice.

The new Maduro government used the “Cadena Nacional,” a complete preemption of all television and radio broadcasting, to present bimonthly presidential addresses.

One potentially abusive practice continued to be the granting of awards to individual reporters on “Journalists’ Day.” In May all three branches of the Government and several private organizations, including chambers of commerce, bestowed numerous awards, some accompanied by substantial sums of cash, on the “best” journalists. Rather than being tied to a specific accomplishment—a particular article or series, or even a lifetime’s body of work—most awards were granted without any published criteria to beat reporters assigned to the granting institution. Some of these awards appeared to be deserved; however, many observers viewed them as little more than acknowledgments by the granting institutions of perceived services rendered.

Because President Maduro had limited ties to the media, some journalists took the opportunity to increase reporting on sensitive topics. In the past, there were credible reports of media owners’ repression against individual journalists who criticized the Government, actively criticized freedom of the press, or otherwise reported on issues sensitive to powerful interests in the country. During the year there were no reports of dismissals or threats against journalists.

No more information was available on the television reporter who sued the Security Ministry over the loss of an eye in an unprovoked altercation with a police officer in 2000. No more information was available on the 2000 drive-by shooting of Radio Progreso news director Julio Cesar Pineda Alvarado, who suffered a head wound in the attack.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice; however, police used force to disperse several protests, resulting in a number of injuries.

During the year, incidents in which farmers or local populations took over roadways in Yoro, Comayagua, and Francisco Morazan departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in each incident.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The dominant religion, Catholicism, does not affect adversely the religious freedom of others. The Government prohibits immigration of foreign missionaries who practice religions that claim to use witchcraft or satanic rituals.

In September 2000, the Congress adopted a controversial measure requiring that, beginning in 2001, all school classes begin with 10 minutes of readings from the Bible; however, the legislation had not been put into effect.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. General elections were held in November 2001, and on January 28, Ricardo Maduro Joest was sworn in as President for a 4-year term.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, and direct, balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the President, Congresspersons, and mayors, making individual elected officials more representative and accountable. Suffrage is universal; however, neither the clergy nor members of the military or civilian security forces are permitted to vote. In the 2001 elections, voting was expanded to include Hondurans resident in five cities in the United States, of whom only 1,000 voted. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police.

The investigation into the 2001 election-eve murder of Angel Pacheco, Nationalist Party congressional candidate from Valle department, had uncovered no suspects at year's end (*see* Section 1.a.).

A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments. There are five recognized parties. The Democratic Unification Party was established by decree as a result of the Esquipulas peace accords.

There are no legal impediments to the participation of women or minorities in government and politics. The Government established the National Women's Institute a number of years ago to address women's issues. The 2000 Law of Gender Equality mandated that 30 percent of all candidates nominated for public office by recognized political parties be women. Congresswomen and women's groups strongly criticized all five parties for their lack of female representation in the congressional slates after the November 2001 elections. There were 5 women in the 128-seat legislature. There were nine female justices, one of whom was president, on the Supreme Court and three female ministers in the Cabinet.

There were few indigenous people in leadership positions in government or politics. There were 3 indigenous or Garifuna (Afro-Caribbean) persons in the 128-seat legislature.

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

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

One human rights group received death threats during the year and another announced that security forces harassed its members after they spoke out in support of investigations into extrajudicial killings committed by police.

In August human rights worker Jose Santos Callejas was killed in Atlantida in a criminal assault related to his human rights activism (*see* Section 1.a.).

In September the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions published the report on her visit to the country to meet with government, human rights, and children's organizations (*see* Section 1.a.).

In March Congress chose Ramon Custodio Lopez to replace Leo Valladares Lanza as Human Rights Commissioner of the National Human Rights Commission (NHRC), an autonomous government institution. He holds a 6-year term. The NHRC director has free access to all civilian and military institutions and detention centers and is supposed to perform his functions with complete immunity and autonomy. The Government generally cooperated with the NHRC and invited the Human Rights Ombudsman to work on interagency commissions dealing with rule of law issues.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution bans discrimination based on race or sex. The Constitution also bans discrimination on the basis of class; however, in practice, the political, military, and social elites generally enjoyed impunity under the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (*see* Section 1.e.).

Women.—Violence against women remained widespread. The Penal Code classifies domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In February 2000, the Pan-American Health Organization reported that 60 percent of women had been victims of domestic violence. In September 2000, the U.N. Population Fund estimated that 8 of every 10 women suffered from domestic violence.

Over the year, the Public Ministry reported that it received an average of 341 allegations of domestic violence each month in the capital city of Tegucigalpa alone. In August a woman was sentenced under the new Criminal Procedures Code to 30 years for killing her abusive husband earlier in the year.

The 1997 Law Against Domestic Violence was intended to strengthen the rights of women and increase the penalties for crimes of domestic violence. In practice the law does not impose any fines, and the only sanctions are community service and 24-hour preventive detention if the aggressor is caught in the act. The Penal Code includes the crime of intrafamily violence and disobeying authorities, in the case that an aggressor does not obey a restraining order. Three years' imprisonment per incident is the maximum sentence. During the year, many cases were resolved because the Government began to fund special courts to hear only cases of domestic violence.

The Government works with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offer legal, medical, and psychological assistance, but not physical shelter.

The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if the victim does not want to press charges.

The law does not prohibit adult prostitution, but child prostitution is illegal; the law prohibits promoting or facilitating the prostitution of adults.

Women were trafficked for sexual exploitation and debt bondage (*see* Section 6.f.).

The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Women, who make up 36 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. Under the law, women have equal access to educational opportunities and slightly more girls complete grade school and high school than boys. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries. The Inter-Institutional Technical Committee on Gender supported gender units in five government ministries, and there is a special working women's division in the Ministry of Labor to coordinate government assistance programs that have a gender focus and that are targeted for women.

Workers in the textile export industries reported that they were required to take preemployment pregnancy tests (*see* Section 6.e.).

The Government maintained the cabinet-level position directing the National Women's Institute which develops women and gender policy (*see* Section 3).

Children.—Although the Government allocated 23.7 percent of its total expenditures for the year to basic education through the ninth grade (including salaries of teachers and administrators), funding remained insufficient to address the educational needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 13; however, the Government estimated that as many as 65,000 children ages 6 through 12 fail to receive schooling of any kind each year; of these, almost 10,000 will never attend primary school. Slightly more girls attend primary and high school than boys, and older boys often drop out to assist their family by working. The Government increased its national school capacity by approximately 50,000 children during the year.

The Government allocated 10 percent of its total expenditure to the health sector. Media reports indicated that up to 40 percent of children under the age of 5 years suffer from chronic malnutrition. The Government estimated that 7,000 children (40 of every 1,000) under age 5 die each year because of inadequate health care.

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children. It established prison sentences of up to 3 years for persons convicted of child abuse. In the major cities of San Pedro Sula and Tegucigalpa, with a combined population of 682,400 minors, the Public Ministry received a total of 2,500 complaints of child abuse.

Child prostitution is a problem in some tourist and border areas of the country.

Child labor is a problem (*see* Section 6.d.).

Trafficking in children is a problem (*see* Section 6.f.).

The Government was unable to improve the living conditions or reduce the numbers of street children and youth (*see* Sections 1.a. and 1.c.). The Government and children's rights organizations estimate the number of street children at 20,000, only half of whom have shelter on any given day. Many street children have been sexually molested or exploited. Approximately 30 percent of the street children and youth in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive. Over 75 percent of street children live on the streets because of severe family problems; 30 percent simply were abandoned. The Tegucigalpa city administration runs 12 temporary shelters with a total capacity of 240 children.

Abuse of youth and children in poor neighborhoods and in gangs is a serious problem. Both the police and members of the general population engaged in violence against poor youth and children; some of these children were involved in criminal activities, but many were not (*see* Sections 1.a. and 1.c.). Police were found to be responsible for some of the murders of approximately 500 children, only some of whom lived on the street, who were killed summarily in "social cleansing" killings between January 1998 and August (*see* Section 1.a.). In April the first policeman to be sentenced for raping and killing a minor was sentenced to 24 years (*see* Sections 1.a. and 1.c.). Security authorities' abuse of street children decreased significantly in the late 1990s after Casa Alianza trained the Preventive Police on treatment of children and youth for 2 years; it is still a problem, although the situation has improved significantly. Casa Alianza no longer trains police recruits at the National Police Academy in La Paz department. During the year, the Human Rights Committee signed an agreement with the Ministry of Public Security to provide human rights training.

International and national human rights groups implicated public and private security force personnel, vigilante groups, and business leaders in many juvenile deaths (*see* Section 1.a.).

Persons with Disabilities.—There are no formal barriers to participation by an estimated 700,000 persons with disabilities in employment, education, or health care; however, there is no specific statutory or constitutional protection for them. There is no legislation that requires access by persons with disabilities to government buildings or commercial establishments. In May the Honduran Coordinating Group of Institutions and Associations of Rehabilitation, 30 organizations that work with the disabled, demanded that Congress support their activities with \$3.09 million (51 million lempiras), which the Government had promised the groups earlier in the year. In 2001 the National University began providing classes in Honduran Sign Language.

Indigenous Persons.—Some 490,000 persons, constituting 9 percent of the general population, are members of indigenous and Afro-Caribbean ethnic groups. The Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas live in 362 communities and generally have little or no political power to make decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Most indigenous land rights are communal, providing land use rights to individual members of the ethnic group. Indigenous and ancestral lands often are defined poorly in documents dating back to the mid-19th century. Both indigenous and non-indigenous communities have criticized the Government's exploitation of timber; however, government policy over natural resources changed during the year and reportedly included greater local participation.

Land disputes are common among all sectors of society; however, the lack of clear title and property boundaries of indigenous land claims often leads to conflicts between such groups as landless mestizo farmers who clear and occupy land for subsistence farming, local and national elites who encroach on indigenous land to engage in illegal logging, and various government entities (*see* Sections 1.a. and 1.f.). During the year, 12 Tolupan were killed in Yoro department in separate incidents because they opposed illegal logging and usurpation of their ancestral lands. Tolupan leaders implicated sawmill owners, police, district attorneys, and the Governmental Honduran Forest Development Corporation in these murders. By the end of the year no action had been taken in any of the cases. The Government worked

with various indigenous groups on management plans for public and ancestral lands that they occupy. Expanded coverage of the national cadastral registry, property titling, and government land registries has the potential to reduce violence related to land disputes. In recent years security officials and private landowners have been accused of participating in about a dozen murders of Lencas and Garifunas in conflicts over indigenous land claims.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently causes indigenous groups to attempt to regain land through invasions of private property, which usually provoke the authorities into retaliating forcefully. The Government is somewhat responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential individuals.

During the year, the National Agrarian Institute (INA) reduced its issuance of titles to indigenous groups in the new administration because of lack of funds to compensate private owners and due to expected changes in land use laws. INA continued to play a weak role in mediating land claims of indigenous and farmer groups.

Section 6. Worker Rights

a. The Right of Association.—Workers have the legal right to form and join labor unions; unions generally are independent of the Government and of political parties. Most farmer organizations are affiliated directly with the labor movement. Unions occasionally hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in the past several years. Public sector unions have greater strength than private sector unions. Companies with unions are closed shops. During the year, the International Labor Organization (ILO) noted that various provisions in the labor law restrict freedom of association, including the prohibition of more than 1 trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership.

The labor movement consists of three national labor confederations: the General Council of Workers (CGT), the Confederation of Honduran Workers (CTH), and the Unitary Confederation of Honduran Workers (CUTH).

A number of private firms have instituted “solidarity” associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are employer-dominated. Because of the restriction of one union per workplace, a solidarity association can not compete with an independent union if the union is the first to be established. However, neither can a union replace a solidarity association.

The Labor Code prohibits retribution by employers for trade union activity; however, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. Workers often accept dismissal with severance pay rather than wait for a court resolution. Some foreign companies close operations when they are notified that workers seek union representation; one such case occurred during the year. The labor courts routinely consider hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. Once a union is recognized, employers actually dismiss relatively few workers for union activity. However, the right of collective bargaining is not granted easily, even once a union is recognized. Cases of firings and harassment serve to discourage workers elsewhere from attempting to organize. The ILO again reiterated its recommendation for the Government to provide for adequate protection, particularly effective and dissuasive sanctions, against acts of anti-union discrimination for trade union membership or activities and against acts of interference by employers or their organization in trade union activities.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor applied the law in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Collective bargaining agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting; however, there was credible evidence that blacklisting occurred in the assembly manufacturing for export firms,

known as maquiladoras. A number of maquila workers who were fired for union activity report being hired for 1 or 2 weeks and then being let go with no explanation. Maquila employees report seeing computer records that include previous union membership in personnel records, and employers have told previously unionized workers that they are unemployable because of their previous union activity.

When a union is formed, its organizers must submit a list of founding members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. At times companies receive the list illegally from workers or from Labor Ministry inspectors willing to take a bribe. The Ministry of Labor has not always been able to provide effective protection to labor organizers. During the year the Ministry of Labor improved its administrative procedures to reduce unethical behavior of its officials regarding union organizing. There were fewer reports of inspectors selling the names of employees involved in forming a union to the management of the company compared with previous years.

The three national labor confederations maintain close ties with various international trade union organizations.

b. The Right to Organize and Bargain Collectively.—The law protects the rights to organize and to bargain collectively.

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities generally respect in practice. The civil service code denies the right to strike to all government workers, other than employees of state-owned enterprises. Nonetheless, civil servants often engage in illegal work stoppages without experiencing reprisals. The ILO reported that federations and confederations are prohibited from calling strikes, and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike; the ILO asserts that these requirements restrict freedom of association.

The public sector held pervasive and long-lasting strikes throughout the year. High school teachers were on strike for more than 2 months demanding additional salary raises.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry. There are approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. There are approximately 200 export-oriented assembly manufacturing firms located inside and outside EPZs. The Honduran Association of Maquiladores (AHM) and worker representatives routinely meet to reduce potential tensions within the industry. At year's end, approximately 40 of the country's 200 maquiladora firms were unionized.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Members of AHM, both industrial park owners and company owners, are asked to sign the code of conduct to join the AHM. The conditions are not monitored or verified by the AHM, but the AHM does act as arbiter when unions, the Ministry of Labor, or other partners complain about labor conditions in a factory. Workers and supervisors were trained on the elements of this code during the year. Organized labor has equivalent rights and protection inside and outside EPZs.

In the absence of unions and collective bargaining, the management of several plants in free trade zones have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Others use the minimum wage to set starting salaries and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria (see Section 6.e.).

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code. They criticize the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant amendment. The Ministry of Labor sought to address these deficiencies by requesting increased funding in the Government's budget, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by opening more regional offices to facilitate worker access to Ministry of Labor services, and by conducting a painstaking, ongoing review of the Labor Code since 1995. During the year the Ministry of Labor continued its work to strengthen a special maquiladora office and an office for female workers.

A 1995 Memorandum of Understanding (MOU) between the Ministry of Labor and the Office of the United States Trade Representative calling for greater enforcement of the Labor Code has resulted in some progress. However, labor unions charge that the Ministry of Labor has not made sufficient progress toward enforcing

the code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August and September 2000, the Government reaffirmed its commitment to abide by the terms of the 1995 MOU and to take additional steps to strengthen enforcement of the Labor Code.

c. Prohibition of Forced or Bonded Labor.—The Constitution and the law prohibit forced or bonded labor, including by children; however, there were credible allegations of compulsory overtime at maquiladora plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 14 years of age is permitted to work with parental and Ministry of Labor permission; however, child labor is a problem. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 400,000 children work illegally. The Children's Code prohibits a child of 14 years of age or younger from working, even with parental permission, and establishes prison sentences of 3 to 5 years for persons who allow children to work illegally. This law is not enforced in practice. An employer who legally hires a 15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year.

The Ministry of Labor does not enforce effectively child labor laws outside the maquiladora sector. Violations of the Labor Code occur frequently in rural areas and in small companies. Significant child labor problems exist in family farming, agricultural export (including the melon, coffee and sugarcane industries), and small-scale services and commerce. A May 2001 household survey reported that 9.2 percent of children between ages 5 and 15 were working, and that 26 percent of children ages 11 through 15 work. Many children also work in the construction industry, on family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work on lobster boats, where they dive illegally with little safety or health protection. Children who work on melon farms were exposed to pesticides and long hours.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain work permits by fraud or purchase forged permits.) During the year, one foreign firm in the maquiladora sector was reported to employ minors, and the Ministry of Labor took action to penalize the employer and assure that minors no longer work at the plant.

During the year, the new administration swore in new members of the inter-agency National Commission for the Gradual and Progressive Eradication of Child Labor, created in 1998. In September 2001, the employers' association launched a campaign to raise awareness of the law among its members. In May the ILO Office on the Eradication of Child Labor launched its programs focused on the eradication of the worst forms of child labor in melon and coffee production.

e. Acceptable Conditions of Work.—In May minimum wages, that were renegotiated went into effect. The agreement included a voluntary price freeze on a basic basket of consumer goods and public services. During the year, however, market pressures pushed up prices leading labor leaders to protest the violation of the agreement. Daily pay rates vary by sector of the economy. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from \$2.64 to \$3.70 (43.60 to 61.23 lempiras) per day, depending on the size of the firm. The highest minimum wage is \$4.57 (75.50 lempiras) per day in the export and financial sectors. All workers are entitled to a bonus equivalent to a month's salary in June and December every year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family.

As a result of the October 2000 negotiated agreement on the minimum wage, the Government committed itself to establishing an Economic and Social Council within which the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. In March the Council was sworn in.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code

provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. The law requires overtime payment for hours in excess of the standard. There are prohibitions on excessive compulsory overtime. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoy equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor is cumbersome.

The Ministry of Labor is responsible for enforcing national occupational health and safety laws, but does not do so consistently or effectively. During the year, the Ministry of Labor received technical assistance and equipment to improve its regulatory capacity. There are 16 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 70 percent of all employment, is regulated and monitored poorly. Worker safety standards also are poorly enforced in the construction industry. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the free-trade zones and in private industrial parks (see Section 6.b.). There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

Labor unions, women's groups, and human rights groups report receiving complaints from workers in textile export industries that include: illegal preemployment pregnancy tests, severely limited access to medical services, verbal abuse, no freedom to organize unions, and forced and unpaid overtime. The Ministry of Labor has increased its responsiveness to these complaints, according to the same organizations.

The Government, private sector, and worker representatives participated in a regional program to improve occupational safety and health conditions throughout Central America. This program aimed to strengthen regional labor codes and the enforcement capabilities of the Central American labor ministries in these fields.

f. Trafficking in Persons.—The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. Honduras is primarily a source, but also a transit, country for trafficked children and women to neighboring countries and the United States. According to Casa Alianza, Honduran children, especially young girls, are trafficked by criminal groups to other Central American countries for purposes of sexual exploitation. There are reports that trafficking in women and children also occurs within the country's borders. There were reports during the year that girls and women were trafficked to Guatemala, Mexico, and the United States for purposes of prostitution. An April raid in Texas uncovered a prostitution ring run by Hondurans in which more than three dozen Honduran women and girls had been trafficked to the United States and were subject to sexual exploitation and debt bondage.

Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics. Honduran authorities did not repatriate any of the minors involved despite 2000 press reports that indicated the Government was taking action. Canadian authorities cooperated with Honduras during the year to identify and repatriate the minors.

Charges were dropped in the February 2000 case of a San Pedro Sula judge accused of kidnaping six minors with intent to sell them. During the year the Government continued to work with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In 2000 a local children's rights group charged that 498 children had been reported missing from 1986 to 2000, including 22 children in 2001. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000. No more information was available on this case at year's end.

The law prohibits trafficking in persons and provides for sentences of between 6 and 9 years imprisonment; the penalty is increased if the traffickers are government or public employees, or if the victim suffers "loss of liberty" or is killed. The Government and Justice Ministry, through its General Directorate for Population and Migration, is responsible for enforcing the country's immigration laws although it does not have arrest powers. However, corruption, a lack of resources, and weak police and court systems hinder law enforcement efforts. While traffickers have been arrested, the Government has not prosecuted any cases.

The Government does not provide economic aid to victims or potential victims of trafficking. During the year, an interagency working group to limit trafficking was inaugurated. In 2000 the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Hon-

duras. The centers' activities continued during the year, with the assistance of several international organizations.

JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; however, in October general elections, Prime Minister P.J. Patterson's People's National Party (PNP) won an unprecedented fourth consecutive term. The PNP won 34 of the 60 seats in Parliament after a tense campaign that was less violent than previous elections. International observers found that intimidation of voters and party agents was a problem during the general elections. The judiciary was generally independent but lacked adequate resources.

The Jamaica Constabulary Force (JCF) had primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest, unless so ordered by the Prime Minister. The Prime Minister occasionally gave the JDF powers to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses.

The market economy was based largely on tourism, production of primary products (bauxite and alumina, sugar, bananas), and remittances. The country's population was approximately 2.6 million. The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a difficult program of structural adjustment. The economy grew by an estimated 0.5–1.0 percent during the year, compared with 1.7 percent in 2001. There was a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed some unlawful killings. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. There were reports of arbitrary arrest and detention. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor was a problem, as was child prostitution. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Jamaica was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

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 at least 5—and possibly as many as 12—politically motivated killings during the year, committed by supporters of various political factions. The police committed some unlawful or unwarranted killings during the year.

Although there is a history of political violence and killings in the period leading up to elections, the last three general elections were relatively calm (*see* Section 3).

On January 3, unidentified gunmen shot and burned to death seven persons, including two children, in a nighttime attack in the 100 Lane area of Kingston, a community linked to the PNP. Police at a nearby station failed to respond to the attack. Police believed that the incident was a reprisal for a January 1 attack in the Jamaica Labor Party (JLP)-controlled Parke Lane area in which one person was killed. Most observers believed that both incidents were criminal reprisal killings, rather than politically motivated murders.

In August three persons were shot and killed, and another was shot and injured after a dispute over the removal of political graffiti in Spanish Town, St. Catherine parish. The placement of political flags led to increased tension and the murders of JLP supporters. In September 2 people were killed and at least 13 wounded in a

series of drive-by shootings between rival political enclaves in central Kingston. In response to these incidents and other threats of violence, the newly appointed Political Ombudsman went to the scene to reduce tensions (*see* Section 4).

On October 16 (election day), seven people, including a child and three women, were murdered in the early morning in Rock Hall, St. Andrew. The first murder was that of a JLP political worker killed near a polling station; then members of two families were killed at their homes. The victorious opposition candidate for the area expressed concern that the killings were politically motivated. In December the police arrested two 17-year-olds and charged them with seven counts of murder. The police linked the killings to a gang conflict involving a stolen gun.

The police frequently employed lethal force in apprehending criminal suspects. During the year, there were 149 deaths, including those of 16 police officers, during police encounters with criminals, compared with 163 such deaths in 2001. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 40 per 100,000 persons. Well-armed gangs that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols. There were targeted assaults against police officers and their families.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The Bureau of Special Investigations (BSI) within the JCF specifically addressed police shootings; the BSI employed 29 investigators. The BSI supplemented the JCF Office of Professional Responsibility (OPR), which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had 13 investigators.

On July 22, police shot and killed 7-year-old Romaine Edwards during what police said was a shoot-out with gangsters in Lawrence Tavern, St. Andrew. Area residents agreed there was no shoot-out between police and gunmen. The authorities subsequently transferred all seven officers from Lawrence Tavern to another police station. The BSI immediately took the case, which was still under investigation at year's end.

On November 15, the police allegedly shot and killed a 24-year-old mentally retarded man, Daemon Roache, in Kingston while in pursuit of three robbers. Residents claimed police shot Roache in the back and head. Over 100 residents protested the shooting, and a human rights NGO criticized the police action. At year's end, the BSI was investigating the incident.

During the year, at least five detainees died while in police lockups; some of the deaths involved negligence (*see* Section 1.c.).

In December 2001, police shot and killed 26-year-old Dave Steele after a vehicular pursuit in Trelawny. Police said that they fired warning shots, but witnesses said that police shot Steele in the back after he exited the car. A 300-person crowd demonstrated following the incident and erected roadblocks. On July 30, the Director of Public Prosecutions (DPP) ruled that a special constable should be charged with the murder, and the case was before the courts at year's end.

The case of a farmer killed by police in January 2001 remained pending before the DPP at year's end.

On October 3, a 10-member jury for the coroner's inquest into the March 2001 killings of seven youths by the police Crime Management Unit in Braeton, St. Catherine parish, found the police "not criminally responsible" by a 6 to 4 vote. By law, a jury comprising seven or more persons cannot have more than two dissenters; if it does, the Coroner may hold a new inquest or the resident magistrate may refer the case to the DPP for a ruling. An Amnesty International press release called the inquest "deeply flawed" and asked the DPP immediately to instigate criminal proceedings against the police officers involved.

In July 2001, a joint police-army operation entered Tivoli Gardens, West Kingston, reportedly to search for an arms cache following months of unrest in West Kingston. During the operation, 25 civilians, 1 policeman, and 1 soldier were killed in violence that lasted for several days. The police said that they came under heavy fire from gunmen. The opposition leader, who was the parliamentarian for Tivoli Gardens, contended that the police operation was intended to discredit him before national elections. The Prime Minister established a Commission of Inquiry, which concluded in June that the events were not political and that the police acted with restraint. The Commission blamed the violence on the presence of drugs in the neighborhood and the proliferation of guns and ammunition in the hands of civilians. Also in June, the opposition leader released an affidavit that suggested that politically fueled rivalries and police inaction in the face of the imminent melee were

to blame for the outbreak of disturbances. Amnesty International representatives expressed concern that the inquiry did not conform to international standards.

In October 2001, police killed Andrew Stephens, a JLP “don” (gang leader), reportedly in a shoot-out. In March the police sent the case to the DPP, where it remained at year’s end.

In July a court acquitted a policewoman of murder in the 2000 shooting of a man in Farm district, Clarendon parish.

In May 2001, a coroner’s inquest recommended that all the police involved in the 1999 death of Patrick Genius should be held criminally responsible. In December 2001, the DPP ruled that there was insufficient evidence to support a criminal case against the police. The Supreme Court refused an appeal brought by Genius’ mother. On October 31, the Full Court, made up of the Chief Justice and two other justices, ruled that the lawyers may challenge the DPP’s decision, which required the DPP to reconsider whether to prosecute the police involved. Human rights groups praised the decision; the case remained before the Full Court at year’s end.

In 1999 nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a roadblock near his home after curfew. Gayle died as the result of internal injuries; at the coroner’s inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, no criminal charges were filed, and the DPP closed the case in December 2001. In March the local human rights group Jamaicans for Justice presented a petition to the Inter-American Commission on Human Rights regarding the case; responses to the petition were in progress at year’s end.

The JCF undertook an initiative of “community policing” to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The Human Rights Advisor to the Minister of National Security and Justice worked to educate JCF trainees and junior officers to respect citizens’ rights. The Jamaica Chamber of Commerce Inner-City Development Committee and the Jamaica Social Investment Fund distributed a Police Code of Conduct and a Charter of Citizen’s Rights to police officers and citizens. The Police Federation conducted lectures to educate policemen in citizens’ rights. The Government, the Independent Jamaica Council for Human Rights, and foreign governments developed human rights materials to be used in all subjects at the primary and secondary levels, which were being tested in selected classrooms at year’s end. The JCF policy statement on the use of force incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 11 vigilante killings during the year, the motives for which varied—some victims were targeted, while others were the result of spontaneous mob action. On July 20, an angry mob of local residents beat and then burned to death a man accused of committing several rapes and robberies in St. Catherine. On August 18, a mob stabbed a bus driver 56 times and slashed his throat after an altercation between the driver and a passenger left the passenger injured. Human rights advocates contended that police did not consider such murders a priority and expressed concern that the perpetrators rarely were charged.

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 other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

In July 2001, after demonstrators blocked parish roads to protest demolition of 17 squatter homes, local police and the JCF Mobile Reserve Unit attempted to disperse the crowd, using tear gas, batons, and firing live ammunition in the air. Prime Minister Patterson requested a report on the demolition operation and a review of procedures for ejecting squatters, and the OPR investigated accusations of police excesses. In January the BSI submitted the case to the DPP, where it remained at year’s end.

In April the DPP ruled that two police officers should be charged with wounding with intent and malicious destruction of property for a June 2000 incident in which police fired on a minibus when the driver failed to stop at a roadblock. The police concluded an investigation into the incident and sent it to the DPP’s office in September 2001. The case was before the courts at year’s end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care were typical. There were no reports of prison riots. The majority of pretrial detainees were held in police lockups. After an April escape from the Spanish Town lockup, the Minister of National Security ordered the Horizon Remand Center to receive prisoners, which immediately eased overcrowding in lockups.

On March 24, a prisoner at Mandeville police station died after being beaten by other prisoners at the lockup. The authorities charged five members of the police force with failing to carry out proper supervision and suspended two police constables. The Public Defender began proceedings to obtain compensation from the Government on behalf of the victim.

On March 25, a prisoner at Bull Bay lockup died in police custody. On August 30, a prisoner in a Manchester lockup died in police custody. Both cases were being investigated at year's end.

In March media reports stated that mentally ill inmates were being used as sex slaves in prison. A former medical officer and a psychiatrist at the St. Catherine Adult Correctional Facility said that mentally ill inmates and other "weaklings" had been raped repeatedly, and that prison officials were aware of the problem.

On May 7, two Remand Center wardens were kept hostage for over 2 hours in a security post. On July 8, the JDF took operational control of the Remand Center after one detainee escaped and others attacked a correctional officer; at year's end, the center remained under JDF control.

Between July and August 2001, four detainees who were held at the Hunt's Bay police station lockup in Portmore, St. Catherine parish, died under unexplained circumstances. In May the DPP ruled that the case should be sent to the Kingston Criminal Court, where charges were pending against the Hunt's Bay wardens at year's end. An April 2001 Amnesty International report documented severe overcrowding (more than three times intended capacity), cells without lighting or sanitation, and lack of medical care and adequate food in the Hunt's Bay lockup. The report detailed frequent and credible allegations of police abuse in lockups, including severe beatings, mock executions, and rape. Although Hunt's Bay lockup closed in 2001, the authorities reopened it during the year.

A separate prison for women—the Ft. Augusta Women's Prison—was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Ft. Augusta was also relatively safer and had less violence than the men's prisons. However, inmates at Ft. Augusta complained of other inmates carrying knives and other weapons.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles were held with adults. A 1999 Human Rights Watch report criticized the conditions in which juveniles were held. The Government charged Ministry of Health officers with finding appropriate "places of safety" for juveniles, and adopted new procedures, which were considered effective on the whole.

On March 26, two toddlers ended up in a police cell with their mothers but were released after the intervention of a senior police officer. The Office of the Public Defender and the police each began investigations into the incident, and in December the Attorney General's Office paid each mother approximately \$1,050 (J\$50,000) in compensation.

In 2000 the Court of Appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison. In November the Government argued its appeal of the ruling before the judicial committee of the Privy Council in the United Kingdom, which had not ruled at year's end.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile.—The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. There were some reported incidents of arbitrary arrest during the year, and the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period.

In March 2001, a magistrate's court freed a 76-year-old man who had been held in prison for 29 years without trial because he had been judged unfit to plead due to mental illness. Following public scrutiny, the Government acted swiftly to determine the number of such cases (which human rights advocates estimated at between 200 and 500) and bring them before the courts. During the year, between 20

and 25 mentally ill persons were released, and human rights organizations helped some of them to file false imprisonment cases against the Government. Each new “unfit to plead” case must be brought to the court’s attention once per month, and human rights organizations were satisfied that such persons were less likely to be forgotten.

The law requires police to present a detainee in court within a reasonable time period, but the authorities continued to detain suspects beyond such a period, which the Government attributed to an overburdened court system that could not accommodate large numbers of such presentations in a timely manner (*see* Section 1.e.). Magistrates inquired at least once a week into the welfare of each person listed by the JCF as detained. There was a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they could not afford to pay, they were jailed until relatives or consulates could arrange for transportation.

The Constitution prohibits forced exile, and there were no reports that it occurred.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, which generally existed in practice. However, the judicial system was overburdened and operated with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants had the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hindered due process. For example, the media reported in August that 80 percent of coroner’s inquests ordered by the DPP were yet to be held. The BSI also was faced with a large backlog. As of December 1, the BSI had investigated 521 of 976 shooting incidents during the year. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located. A night court had some success in reducing the backlog of cases.

The defendant’s right to counsel is well established. Legal aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for persons who have had their constitutional rights violated. The Public Defender’s Office contracted private attorneys to represent clients. There were sufficient funds and legal aid attorneys to meet demand.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary intrusion by the State into the private life of an individual. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

In 2000 the media reported allegations that a special police unit wiretapped telephones without proper authorization in an investigation of police involvement in narcotics trafficking. Following an investigation, in July 2001, the DPP ordered that the civilian head of the unit and two telephone company employees be charged with interfering in the operation of a public utility. In December the case against the two employees was scheduled for a hearing; the other person was thought to be living outside the country.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The four largest newspapers, all privately owned, regularly reported on alleged human rights abuses, particularly those involving the JCF. Foreign publications were widely available. There were 3 television stations and 16 radio stations. The Government’s broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions were unregulated and widely available through satellite antennas and cable operators.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. There were several community protests against police actions during the year. Residents staged demonstrations to protest incidents such as the alleged unwarranted police killing of a man in December 2001, and the July police killing of a child (*see* Section 1.a.).

Security personnel generally acted with restraint during public demonstrations. In August local police units used tear gas against protesting residents and fired into the air during a violent protest against the alleged police killing of a man in Trench Town. The police alleged that the man was a wanted murderer who engaged them in a gun battle.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. Rastafarianism is not a recognized religion under the law. In January the Public Defender's office brought a case to the Constitutional Court to gain government support of Rastafarianism as a religion, which was scheduled for a hearing in February 2003.

Rastafarians had no right to prison visits by Rastafarian clergy. In August 2001, the Public Defender's Office filed a lawsuit against the Government on behalf of a Rastafarian prisoner who charged that he was denied the right to worship. The prisoner complained that he had no access to the ministrations by clergy afforded to prisoners of other religions. The Commissioner of Corrections and Attorney General were named as respondents; the suit had yet to be heard.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

The Government provided asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government established a committee and formal procedures to review claims to refugee status. In November 2001, a group of 128 Haitians arrived in the country. According to immigration officials, 122 were judged to be economic migrants and were not considered for asylum. The other six Haitians were considered for asylum; their appeals were heard on September 2, and they were granted asylum. The committee denied all claims to refugee status by Cubans during the year.

The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over had the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote. Although there is a history of political violence and killings in the period leading up to elections, the October 16 elections were less violent than previous general elections. There were some reports of intimidation of voters and party agents.

Two political parties—the PNP and the JLP—have alternated in power since the first elections in 1944; however, Prime Minister P.J. Patterson's PNP won an unprecedented fourth consecutive term and 34 of the 60 seats in Parliament in the October elections. The opposition JLP held 26 seats; none of the other parties won a seat or received a significant percentage of votes in any constituency.

Improvements in the electoral system, including introduction of new voter's identification cards, the inclusion of voter's pictures on the voter's list, and fingerprinting

of voters at registration helped to reduce fraudulent voting, which was more prevalent in 1997 elections.

Incidents of violence and intimidation—including killings, gunfire, and stone throwing—occurred throughout the election period (*see* Section 1.a.). After campaign rallies of both parties, opposing party supporters stoned buses carrying home rally-goers, resulting in minor injuries. The police rerouted buses to minimize confrontations between party supporters. The security forces controlled violence and generally acted with restraint throughout the election period. Most killings were attributed to criminal rather than political motives.

During the general election campaign, both international and local observer groups concluded that the occurrence of violence, although reduced, continued to be a serious concern in the electoral process. Problems persisted in the garrison communities, including intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. International observers found that intimidation of voters and poll workers appeared to decrease relative to past elections, but was still a problem. They found that the election preparations showed significant advances over the past, and that the security forces played a critical role on election day in maintaining peace and order. The international observers lauded the Code of Conduct, the central Elections Center, and the office of the Political Ombudsman as advances over the 1997 elections.

There were no legal restrictions on the participation of women in politics. Women held about 8 percent of all political offices and 30 percent of the senior civil service positions. Three of the 17 cabinet members were women, one of whom was also the PNP General Secretary.

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

A number of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The nongovernmental organization (NGO) Jamaicans for Justice was a human rights group created in 1999 in response to concerns about police impunity; it focused on the issues of extrajudicial killing and excessive use of force by the police. Jamaicans for Justice reported that undercover police regularly attended its meetings. The group wrote a weekly newspaper column and had a cordial relationship with the police. For example, following the April killing of a police constable, the group called that killing an "attack on the justice system." government officials generally were cooperative and responsive to the views of human rights organizations. However, in June the Attorney General and Minister of Justice responded to NGO scrutiny of the Government's handling of specific human rights abuses such as the Breaton and Gayle cases (*see* Section 1.a.). He stated that judging a country's human rights record solely on abuses carried out by members of the security forces "cannot serve the cause of protecting the rights of our citizens in a comprehensive and wholesome manner."

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office incorporated the former post of Parliamentary Ombudsman, intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights were infringed. The office contracted private attorneys to bring suits against the Government on behalf of private citizens. During the year, the Public Defender successfully sought compensation for a number of citizens, including two jailed toddlers (*see* Section 1.c.) and a prisoner who had his hand broken by a warden at St. Catherine prison. The Public Defender also was seeking compensation for a police officer who had his murder conviction overturned by the Privy Council. That officer spent 11 years in prison, and his Privy Council appeal was held up for 5 years due to the State's failure to provide the court reporter's notes to the Privy Council.

On July 26, the Senate approved the Political Ombudsman (Interim) Act, which separated the functions of the Political Ombudsman from the Public Defender's Office. The Political Ombudsman became a functionary of the Parliament, charged with monitoring the actions of political parties and their supporters in an effort to reduce political violence (*see* Sections 1.a. and 3). The Political Ombudsman is charged officially with investigating any action taken by a political party, or its members or supporters, that may constitute a breach of any agreement or code (such as the Code of Political Conduct, signed by party leaders in June), or is likely to prejudice good relations between supporters of the political parties. The act also empowers the Political Ombudsman to appoint a tribunal or political party representatives to investigate complaints.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (*see* Section 3).

The Jamaica Forum for Lesbians, All Sexuals, and Gays released testimony alleging human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbing, harassment of gay patients by hospital staff, and targeted shootings of homosexuals. In October the United Kingdom granted three gay men asylum based on their fear of persecution in Jamaica, and other such asylum applications reportedly were pending. Individuals committed acts of violence against suspected homosexuals; for example, in May a neighbor broke into a private home and caught two boys in a homosexual act. He called other neighbors who joined him in the home. The neighbors beat the boys until they fled, leaving their clothing behind.

Women.—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. During the year, the number of reported incidents of rape decreased by 4 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other non-custodial sentencing. Breaching a restraining order is punishable by a fine of up to about \$200 (J\$10,000) and 6 months' imprisonment.

There is no legislation that addresses sexual harassment, and it was a problem. There were no reports of sexual harassment of women by the police. Some observers believed that women did not report such incidents because there was no legal remedy.

The law prohibits prostitution; however, it was widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women. During the year, the Bureau completed a review of a number of laws for gender bias and forwarded this review to Parliament.

There was an active community of women's rights groups. A month before the October election, 25 NGOs presented their "Women's Manifesto," which particularly noted the "lack of national attention to sexual crimes" and called on candidates and parties to commit to principles of the manifesto. Chief among the groups' concerns was the prevalence of a societal indifference toward, or acceptance of, rape and other sexual crimes against women and girls. The launch had moderate media support and coverage but little impact on election debates. Women's groups were concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media.

Children.—The Government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government's programs for children. The Educational Act stipulates that all children between 6 and 12 years of age must attend elementary school. However, due to economic circumstances, thousands of children were kept home to help with housework and avoid school fees.

A National Youth Development Center, part of the Ministry of Education, Youth, and Culture, coordinated youth programs.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, especially in inner cities. NGOs reported that inner city "dons" or community leaders and sometimes even fathers initiated sex with young girls as a "right." There were 270 reported cases of carnal abuse—sex with girls under 16—during the year. The Government expressed concern about child abuse and admitted that incidents were underreported. Child prostitution was a problem (*see* Section 6.f.).

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource con-

straints resulted in juveniles “in need of care or protection” being incarcerated in police lockups with adults (*see* Section 1.c.).

In 2001 the Government began the Possibilities Program to alleviate the problems of street children; the program included a care center, a resocializing center, and three skills centers.

Persons with Disabilities.—No laws mandate accessibility for persons with disabilities, who encountered discrimination in employment and denial of access to schools. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Minister of State for Labor and Social Security, who is blind, reported that out of a disabled population of approximately 250,000, only about 200 persons were gainfully employed—90 percent by the Government. The Government trained persons with disabilities for jobs within the information technology sector, and added two buses equipped with hydraulic lifts for wheelchairs during the year. In 2001 it was reported that numerous persons declared unfit to plead remained in prison without trial (*see* Section 1.d.). Human rights organizations were satisfied with the Chief Justice’s order that each “unfit to plead” case be brought to the court’s attention once a month.

Section 6. Worker Rights

a. The Right of Association.—The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. The country’s poor economy led to a decline in union membership. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

All major trade unions were affiliated with some major regional or international labor organizations.

b. The Right to Organize and Bargain Collectively.—There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforced the LRIDA and other labor regulations. All parties were committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The International Labor Organization (ILO) Committee of Experts (COE) considered that where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contended that this would unduly lengthen negotiations.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes did occur. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs. Other than in the case of prison guards, there was no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of “essential services” are prohibited from striking, a provision the ILO repeatedly criticized as overly inclusive.

There were a few strikes during the year. In November electric utility company workers defied a 30-day injunction against strike action issued by the Supreme Court and staged a brief strike. At year’s end, the Ministry of Labor was involved, and negotiations continued.

Beginning in 1999, prison guards conducted an islandwide sickout to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities placed them on forced leave at one-fourth pay, brought disciplinary charges against the guards, and declared the work stoppage illegal. On May 13, the Public Services Commission accepted the petition from the National Security Minister not to proceed with charges against those correctional officers who accepted the negotiated agreement between

the Government and their unions, and 616 warders were reinstated. They were expected to receive approximately \$9.4 million (J\$450 million) in back wages.

Domestic labor laws applied equally to the “free zones” (export processing zones). However, there were no unionized companies in any of the 3 publicly owned zones, which employed 7,813 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, but attempts to organize plants within the zones continued. Company-controlled “workers’ councils” handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Bonded Labor.—The Constitution does not specifically prohibit forced or bonded labor by either adults or children, but there were no reports that this practice occurred.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the Ministry of Health is charged with finding places of safety for children. However, according to Ministry officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 were seen peddling goods and services or begging on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see Section 5).

With assistance from the ILO’s International Program for the Elimination of Child Labor, the Government undertook several sector-specific programs to study and combat child labor. These included a data collection component, awareness raising activities, and direct action to identify and withdraw children from the worst forms of child labor, particularly prostitution, fishing, tourism, and the informal sectors. An ILO adviser overseeing the project was assigned to the Labor Ministry and conducting various assessments of the problem.

e. Acceptable Conditions of Work.—The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage, raised from \$25 (J\$1,200) to \$38 (J\$1,800) per week during the year, was considered to be inadequate to provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely.

The Labor Ministry’s Industrial Safety Division sets and enforces industrial health and safety standards, which were considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. Trafficking in Persons.—The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. A 2000 ILO study found child prostitution, involving girls as young as 10 years old, to be a widespread problem in all parts of the country. Other than that, there were no confirmed reports that persons were trafficked to, from, or within the country.

MEXICO

Mexico is a federal republic composed of 31 states and a federal district, with an elected president and a bicameral legislature. In July 2000, voters elected President Vicente Fox Quesada of the Alliance for Change Coalition in historic elections that observers judged to be generally free and fair, and that ended the Institutional Revolutionary Party’s (PRI) 71-year hold on the presidency. The peace process in Chiapas between the Zapatista National Liberation Army (EZLN) and the Government remained stalled. The EZLN has been silent since the passing of the Indige-

nous Rights and Culture law in August of 2001. There has been no dialogue between the EZLN and the Government since then because the EZLN refused to meet with the Government's representative, Luis H. Alvarez. Sporadic outbursts of politically motivated violence continued to occur throughout the country, particularly in the southern states of Chiapas, Guerrero, and Oaxaca. The judiciary is generally independent; however, on occasion, it was influenced by government authorities particularly at the state level. Corruption, inefficiency, impunity, disregard of the law, and lack of training are major problems.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and various police auxiliary forces, have primary responsibility for law enforcement and maintenance of order within the country. However, the military played a large role in some law enforcement functions, primarily counternarcotics. There were approximately 5,300 active duty military personnel in the PFP as permitted by the 1972 Firearms and Explosives Law. Elected civilian officials maintain effective control over the police and the military; however, corruption is widespread within police ranks and also is a problem in the military. The military maintained a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers committed human rights abuses.

During the year, the market-based economy began a slow recovery after the 2001 global economic slowdown. In 2001 the country's population was estimated at 98.8 million persons. Gross Domestic Product grew at an annualized rate of 2.1 percent during the first half of the year after declining by 0.3 percent in 2001. The rate of inflation was 4.4 percent. Leading exports included petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. During the year, industrial production slowly recovered after contracting by 2.5 percent in 2001. Over the last year, automobile production, a key sector, fell by 2.7 percent; however, economic forecasters anticipate automobile production will grow in the future. Average wages increased by 5.8 percent during the year, slightly higher than the 5.5 percent rate of inflation in the same period in 2001 and higher than the Government's target rate of 4.5 percent. An estimated 25 percent of the population resides in rural areas where subsistence agriculture is common. Income distribution remains skewed: in 2000, the top 10 percent of the population received 37.8 percent of total income while the bottom 20 percent earned an estimated 3.6 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remained in several areas, and in some states, especially Guerrero, Oaxaca, and Chiapas, where a poor climate of respect for human rights presented special concern. Federal and state law enforcement officials and one member of the military were accused of committing unlawful killings. There were reports of vigilante killings. There were documented reports of disappearances. The police sometimes tortured persons to obtain information. Prosecutors used this evidence in courts, and the courts continued to admit as evidence confessions extracted under torture. There were cases of police torture of suspects in custody that resulted in deaths. Impunity remained a problem among the security forces, although the Government continued to sanction public officials, police officers, and members of the military. Widespread police corruption and alleged police involvement in narcotics-related crime continued, and police abuse and inefficiency hampered investigations. Narcotics-related killings and violence increased, particularly in the northern states and Mexico City. Prison conditions were poor. The police continued to arrest and detain citizens arbitrarily. Lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. The authorities on occasion violated citizens' privacy. Indigenous people's access to the justice system continued to be inadequate. There were reports of forced sterilizations in marginalized communities, especially indigenous areas. Human rights groups reported that armed civilian groups in the state of Chiapas continued to commit human rights abuses, and some observers alleged that the Government used excessive force during incidents of conflict with likely sympathizers of rebel groups in Chiapas and Guerrero. There was an increase in confrontations between armed civilian groups and sympathizers of the Zapatista National Liberation Army (EZLN). Isolated guerrilla attacks against government property and personnel continued; however, there were fewer such attacks than in previous years. Journalists investigating drug trafficking occasionally were threatened by narcotics traffickers, primarily in the northern states. Corrupt members of the police sometimes violated the rights of illegal immigrants. Human rights workers continued to be subjected to attacks and harassment. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDS persisted. Sexual exploitation of children continued to be a problem. There were credible reports of limits on freedom of association and work-

er rights. There was extensive child labor in agriculture and the informal economy. Trafficking in persons, including children, remained a problem, and there were credible reports that police and other officials were involved in trafficking. Mexico was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The Government continued to take important steps to improve the human rights situation; however, its efforts continued to meet with limited success in many areas. In addition, it increased its efforts to enhance cooperation with the international community and with domestic human rights groups during the year. The coordination of the Inter-Secretarial Commission on Human Rights, composed of members from the secretariats of government (SEGOB), Foreign Relations (SRE), Defense (SEDENA), the Attorney General's office (PGR) and others, has passed from the SRE to the SEGOB, with the added participation of civil society and human rights NGOs as permanent members rather than as observers. On July 30, the Secretary of government, Santiago Creel, announced the creation of a new sub-secretariat for human rights tasked with attending efficiently to political and social conflicts, fortifying relations with Congress to promote human rights-related legislation, and emphasizing the President's commitment to human rights. The new sub-secretary had not been named at year's end. On July 1, Foreign Minister Jorge Castaneda and U.N. High Commissioner for Human Rights (UNHCHR) Mary Robinson jointly announced the establishment of a UNHRC office in Mexico. The office will help the Government undertake a study of the human rights situation in the country and to formulate a national human rights program. On November 11, President Fox met with Amnesty International secretary general Irene Kahn who reproached the President for the lack of progress in the investigation of the death of Digna Ochoa and the lack of a cohesive national human rights plan. Fox emphasized the Government's commitment to human rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—Members of the security forces and federal and state police were accused of committing a number of killings during the year.

On March 29, members of Federal Investigations Agency (AFI) under the PGR's office arrested Guillermo Velez Mendoza for suspected involvement in a kidnaping case. Velez died in the custody of the AFI agents 5 hours later. Varied initial reports stated that Velez died of natural causes while in custody, while being subdued during an attempt to escape, or as the result of a fall; however, subsequent investigations revealed that he died from asphyxiation while being tortured. On May 14, the National Human Rights Commission (CNDH) ruled that Velez was subjected to "arbitrary detention, cruel and degrading treatment and homicide." On August 8, the Mexico State Attorney General's office ordered (PGJEM) the arrest of five AFI agents for being accessories to aggravated homicide, acting against the administration of justice, and abusing authority. One of the agents, commander Hugo Armando Muro Arellano, who is suspected of applying the headlock which resulted in Velez' death, was freed on bail and was a fugitive at year's end.

On May 20, elements of the Federal District Secretariat of Public Security (SSP) arrested Jose Gabriel Martinez Romero, an active duty major in the Armed Forces, in a hotel in Mexico City for disorderly conduct and possession of a gun and transported him to a PGR sub-delegation office in Azcapotzalco. Police found him dead in the back of the vehicle when it arrived at the PGR office. Investigations revealed that cause of death was pulmonary arrest and hemorrhage of the pancreas. The authorities implicated 25 police officers in the death. At year's end, 6 officers were released, 17 remained in custody pending further investigation, and 2 had not been found.

On May 24, a group of soldiers shot at a group of Central American migrants, killing two Hondurans, Elmer Alexander Pacheco Barahona and another youth only known as David, both age 16, and wounding two, Pacheco's brother Antonio and Jose Rodolfo Rivas Ramirez from El Salvador. In November the authorities arrested and charged soldier Ricardo Olvera Venegas with the killing of two youths.

On May 28, in Monterrey, Nuevo Leon state, Francisco Medellin Alberto died in custody during an interrogation by the ministerial police who arrested him on suspicion of robbing an automatic teller machine. The PGR confirmed that Medellin died of asphyxiation while apparently being tortured in the basement of the Ministerial Police building. Two police agents abandoned the body at the University Hospital. Suspects Juan Manuel Gutierrez Navarro, Juan Cruz Rosales, and Sergio

Martinez Acosta had been arrested, and Jorge Julio Estupinian de la Rosa was a fugitive at year's end. Three other police agents are suspected of involvement in the death. The investigation continued at year's end.

On June 17, Roberto Carlos Mendoza Zuniga died in his cell at the PGR in San Nicolas, Nuevo Leon state from a gunshot wound inflicted by police agent Alejandro Huerta Rivera during a scuffle with Mendoza after his arrest on June 15 for possession of marijuana and drunkenness. Huerta Rivera and another agent, Cesar Alberto Perez Melendez, were arrested in connection with the death. The investigation continued at year's end.

On June 11, SSP agents shot Josue Ulises Banda Cruz, age 17, while he was running away from police. The police proceeded to load Banda into the police car and drove off. His body was found in front of a house in Colonia Granjas in Mexico City a short time later. The Federal District Human Rights Commission (CDHDF) condemned the police actions. Sixty-two police were under investigation by Federal District authorities for suspected involvement or cover up in the crime. David Leon Mendez, director of the Sector Police, was temporarily suspended pending investigation into his part in covering up for two police officers sought in the case.

On May 31, an undetermined number of assailants shot and killed 26 peasant farmers near Agua Fria, Oaxaca. Police arrested 16 persons from Santo Domingo Tejomulco in connection with the crime. The National Human Rights Commission (CNDH) determined that the killing was part of an ongoing land dispute between the two communities dating back to 1935 and called on state judicial authorities to continue to investigate the killing.

There were no significant developments in the investigation into the October 2001 death of human rights defender Digna Ochoa y Placido (*see* Section 4).

At year's end, government authorities were investigating the July 2001 killing of Everardo Obregon Sosa, a municipal Democratic Revolutionary Party (PRD) leader in Culiacan, Sinaloa.

During the year, federal judges denied the request for release of federal police officers Jorge Encarnacion Perez Barreto and Fabian Garcia Venegas, accused of killing Hector Manuel Bear Alvarez and wounding six other persons in May 2001. Both officers remained in prison at year's end. Fabian Garcia Venegas, had other outstanding charges against him, including abuse of prisoners (*see* Section 1.c.).

During the year, the Mexico State Human Rights Commission (CEDH) completed its investigation of the June 2001 death of Alfonso Escamilla Casimiro in his cell in Teoloyucan, Mexico state and made a six-point recommendation to the Teoloyucan Municipal Police, including the investigation of three agents of the Transit and Public Security Office and three members of the Office of Civil Protection and Firemen. The Municipal Police completed four of the recommendations, and partially completed two others. The Municipal Police declined to investigate the public servants due to lack of evidence.

At year's end, it was not known whether judicial proceedings had begun against Vicente Pena Zuniga, Efrain Cruz Bruno, and Nicasio Bernardino Lopez for the May 2001 killing of Fidel Bautista Mejia in Putla, Oaxaca.

There were no significant developments in the investigation of the May 2001 killing of Jesus Carrola, former chief of the Mexico City judicial police force, and his two brothers. The Mexico City Human Rights Office (CDHDF) found that there had been a violation of human rights; however, the CDHDF closed the case in June 2001.

No information from Military Justice was available concerning the charges against military personnel for the separate January 2001 killings of Esteban Martinez Nazario and Rodrigo Torres Silvain.

On August 13, judicial policemen Luis Carlos Morales Romo, Jose Isable Vargas Davila, Armando Ovando Rios and Marco Antonio Constantino Gonzalez were tried and found guilty of homicide and aggravated robbery for the 2001 killing of 10-year-old Roberto Blancas.

There were no developments in the investigation of the November 2001 abduction and killing of Raul Varela Meza, Juan Antonio Chavez, Eduardo Ramirez, and Lorenzo Barraza in Ciudad Juarez.

There were several killings of journalists during the year, allegedly by narcotics traffickers (*see* Section 2.a.).

There were a number of deaths in prisons during the year. The CNDH investigated three cases during the year. Two were confirmed to be suicides and one was under investigation at year's end.

There were numerous reports of executions carried out by rival drug gangs, whose members included both active and former federal, state, and municipal security personnel. Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking continued. The preliminary number of docu-

mented deaths related to narcotics trafficking for the year was 123; however, the final confirmed number may be significantly greater. Most of the deaths were execution style killings. Between January and August 31, 57 murders with presumed or proven drug connections occurred in the Ciudad Juarez area, a 62 percent increase over the number of killings in the same period last year.

On November 12, heavily-armed assailants killed four police officers and wounded five in a shootout in Sinaloa's capital city of Culiacan. The police wounded three of the attackers, and one of them later died in a hospital. Police had not commented officially on a motive by year's end. Sinaloa has been plagued with drug-related shootings in the past.

In November the governor of Nayarit state asked federal authorities to help investigate a series of violent incidents in the state's mountain region. The incidents began in July and resulted in at least eight deaths, including that of a police officer, a state government employee, and a city councilman in La Yesca. Local law enforcement officials stated that these incidents were nothing other than the work of common bandits. However, local residents alleged that guerrilla groups committed the killings. State and federal authorities determined that the violent incidents were the work of ordinary criminals and launched a public information campaign.

The police and military were accused of committing serious human rights violations as they carried out the Government's efforts to combat drug cartels. In the first 80 days of the Fox administration, there were nearly 2,000 arrests nationwide connected to drug trafficking. There were several instances in which members of security forces, including military elements, have been apprehended for working for or with narcotics traffickers.

On June 7, two soldiers from the 37th Infantry Battalion and two indigenous local residents were killed in the vicinity of Huecato, Michoacan, during a gun battle when a routine patrol came across a group of indigenous people who were allegedly engaged in illegal logging. A third soldier was injured. It was not clear who started the shooting. No formal complaint had been made to either the state or national commission on human rights regarding the initial incident. The Congressional Human Rights Commission for the state of Michoacan reportedly initiated an investigation.

In December 2001, Jose Romualdo Quintero Carrizoza was arrested in Tijuana, Baja California, in an anti-kidnaping operation. Subsequent investigations between authorities in Baja California and Sinaloa and fingerprint matches identified Quintero as being one of the perpetrators of the February 2001 killing of 12 persons in the town of El Limoncito, Sinaloa. Investigations into the case continued at year's end.

There were no developments in the 2000 hanging deaths near El Quelite, Sinaloa state of five men with known drug connections whom witnesses alleged were detained by individuals in PFP uniforms.

Investigations into the presumed suicide of Jose Manuel Urbina, who was found drowned in a Durango state security facility in 2000, found that Urbina had hidden from police officers in the water cistern of the house where he was being held. The police officers were given administrative sanctions for dereliction of duty. The policemen were drinking that night and did not realize Urbina had hidden in the cistern.

On November 13, press sources reported that 18 persons were sentenced to 36 years and 3 months in prison for their participation in the killings of 45 persons in Acteal, in the Chenalho municipality of Chiapas in 1997. Twenty-nine arrest warrants were still outstanding at year's end. During a visit to Mexico in July, Juan Mendez, president of the Inter-American Human Rights Commission (IAHCR), met with NGOs and family members to follow up on progress made on the Acteal case.

In January the Attorney General of Military Justice announced the reopening of the investigation of the 1995 death of Air Force Lieutenant Jose Raul Vargas Cortez. The current Secretary of Defense ordered the investigation reopened to determine if there were errors or omissions in the case.

In June the Congress of Guerrero state requested that federal authorities reopen the investigation into the 1995 Aguas Blancas massacre of 17 indigenous farmers. Both the federal and state governments previously had considered the case resolved.

On August 18, unknown armed assailants killed a PGR official and wounded a judicial police agent in El Bosque municipality, Chiapas. On September 5, seven inmates escaped from the state penitentiary in Mexicali, Baja California; three of the inmates still at large from the escape were implicated in the execution-style killing of three state police agents early in the year (*see* Section 1.c.). On September 9, unknown assailants killed one policeman and wounded two in an ambush in El Bosque. The federal Attorney General's office was investigating the August incident at year's end. On October 4, state police arrested two individuals in connection with

the September incident and charged them with homicide, robbery, and illegal weapons possession.

Investigations continued into the 2001 killings of two federal judges in Mazatlan, Sinaloa state.

There were no developments during the year related to the June 2000 ambush in El Bosque that left seven Chiapas state policemen dead. In 2000, the PGR arrested PRI supporter Alberto Patishtan Gomez and EZLN supporter Salvador Lopez Gonzalez in connection with the ambush, on charges of murder, robbery, and possession of illegal weapons. The PGR charged that Patishtan and Lopez were part of an armed 10-person group that carried out the attack. Patishtan later was released for lack of evidence and the Fray Bartolome de Las Casas Human Rights Center continued to maintain Lopez's innocence, claiming there was insufficient proof against him as well. He remained in custody at year's end.

In August Omar Alberto Morales Patino, former head of the federal police in Casas Grandes and Parral, Chihuahua, was arrested in the state of Mexico and charged with the murders of several informants in Chihuahua in 2000.

There were incidents of vigilante justice. In January a crowd in Puebla killed Silvestre Portillo as he tried to escape after robbing money that was destined for an education, health, and nutrition program. In June a crowd in San Cristobal de las Casas, Chiapas, presuming that Domingo Santiz Diaz and Pascual N. (last name unknown) were responsible for the death of Diego Gomez Gomez, treasurer of the La Candelaria community education committee, lynched them and severely beat two other persons. On December 5, two thieves caught in the act of trying to rob a taxi were lynched in the Milpa Alta area on the outskirts of Mexico City.

b. Disappearance.—There continued to be credible reports of disappearances. NGO sources continued to report that many disappearance cases were in fact cases of prolonged detention by security forces (*see* Section 1.d.)

On June 3, the CDHDF concluded that at least two members of the Federal District Judicial Police, Leticia Cordero Becerra and Luis Jaffet Rodriguez Jasso, were involved in the March 14 disappearance of Jesus Angel Gutierrez Olvera who was forced into a waiting automobile. Witnesses identified Ricardo Sanchez Vascoy, another judicial policeman, as having demanded money from Gutierrez the day before the disappearance occurred. The implicated police officers were questioned but denied any involvement. The investigation continued at year's end. On October 11, the Interamerican Human Rights Commission requested protection for Gutierrez' mother, Leonor Olvera.

On March 14, the Guerrero state Human Rights Commission (CEDH) called on the state Attorney General's office (PGJE) to process judicially a number of police suspected of being involved in the June 2001 disappearance of Faustino Jimenez Alvarez. The report criticized the PGJE for failing to forward a copy of the investigation and for denying the CEDH permission to participate in the preliminary investigation. The CEDH also requested protection for the wife of Jimenez Alvarez, stating that she could be the subject of reprisals. At year's end, members of the Peace Brigades International provided her with an escort.

In July Jose Luis Soberanes, President of the CNDH, criticized the Government for not acting upon the recommendations contained in the November 2001 CNDH's Special Program on the Presumed Disappeared (PREDES) report on the presumed forced disappearances of 532 persons, the majority dating from the 1970s. He alleged that although the Government had accepted the report's recommendations by creating a Special Prosecutor For Investigating Acts Committed Directly or Indirectly by Public Servants that Probably Constitute Federal Crimes Against Persons Associated with Social and Political Movements of the Past (Special Prosecutor), it had failed to act upon them.

Ignacio Carrillo Prieto, the Special Prosecutor, continued his investigations into the disappearances of 532 persons and the killings in October 1968 and June 1971. His office created a national register for indigents to verify if anyone related to the disappearances during the "dirty war" of the 1960s and 1970s may have been released, but with deteriorated mental faculties. The office also produced a DNA data bank with 112 blood samples to be used to identify remains found in clandestine cemeteries.

In an unprecedented move, the Special Prosecutor called former President Luis Echeverria to testify on his involvement in the October 1968 killings in Tlatelolco when he was Secretary of government and the June 1971 "Jueves de Corpus" killings during his presidency. On July 9, Echeverria appeared before the Special Prosecutor to hear more than 150 questions; however, he failed to reappear later to answer the questions, even though his attorneys had been granted an extension of 40 days.

On November 6, Alfonso Martinez Dominguez, Head of Federal District government during the events in 1971, died without answering questions posed to him during an August 22 questioning by Carrillo Prieto. On November 11, the special prosecutor called retired General Luis Gutierrez Oropeza, head of the Presidential Security (EMP) during 1968, to testify. Oropeza requested an extension of time to answer in written form 36 questions posed by the special prosecutor's office. On December 12, Oropeza answered most of the questions in written form. He admitted that he had sent elements of the Army to the plaza, but denied posting sharpshooters on roofs.

On March 14, the Guerrero CEDH published a recommendation against 16 members of the state judicial police for arbitrary detention and forced disappearance in the 2000 disappearance of Maximo Marcial Jaimes.

On September 26, the Attorney General of Military Justice (PGJM) indicted Generals Francisco Quiros Hermosillo and Arturo Acosta Chaparro on charges of aggravated homicide during the so-called "Dirty War". The generals are accused of the death and disappearance of over 130 persons in the state of Guerrero during the period 1971-78. On November 1, an all-military panel found the generals guilty of crimes against public health (narcotics-related), but innocent on charges of conspiracy and bribery. The generals received sentences of 16 and 15 years respectively, were stripped of their rank and benefits, and received fines of approximately \$150 (1,500 pesos). The generals immediately appealed their convictions. They will remain in custody until the trial for the human rights-related charges concludes.

The Specialized Unit for Combating Organized Crime (UEDO) announced that there were 350 kidnappings for ransom during the first 8 months of the year compared with 732 kidnappings in 2001; however, many kidnappings were not reported. The UEDO also reported that it had broken up 20 kidnaping rings and arrested 75 persons.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture; however, it continued to be a serious problem. The Constitution excludes as evidence confessions obtained in the absence of the accused person's defense attorney, and the law excludes coerced confessions, including those extracted under torture (*see* Section 1.e.). To be admissible as evidence, confessions must be made to the Public Ministry or a judge and in the presence of a defense attorney. However, the police regularly obtain information through torture, prosecutors use this evidence in courts, and the courts continue to admit as evidence confessions extracted under torture. The military also has been accused of using torture. According to a July 2001 Amnesty International report, victims and human rights workers who report or criticize the practice of torture often were the targets of intimidation. Many victims were afraid to report or follow through on complaints against the police, thereby hampering prosecution of the perpetrators.

The CDHDF reported that it had received 87 complaints of torture in the Federal District during the year. In 23 cases, the victims did not pursue their complaints. In August the Secretariat of Foreign Relations stated that torture is a common practice in the country; however, the lack of a law that provides a legal definition of torture has made it difficult to identify and eradicate. It is classified as abuse of authority or injury and therefore, a crime.

In August Roberto Garretón, the representative for Latin America to the UNHCHR, stated that torture continued in the country; however, he stated that he had seen positive changes since he last visited the country in 1998.

The Miguel Agustín Pro Center for Human Rights (PRODH) documented 16 cases of torture in the first 6 months of the year. The police or the military in Colima, Guerrero, Chiapas, the Federal District, Jalisco, Sinaloa, Queretaro and Nuevo Leon tortured a total of 35 persons, with involvement by the judicial police in 12 cases.

In April the CNDH reported that the PGR had the most complaints of torture among federal agencies. On October 10, the PGR inaugurated new "Units for the Protection of Human Rights," which are responsible for overseeing that the PGR as an agency respects human rights.

The authorities rarely punish officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Many human rights groups link torture to the prevalence of arbitrary detention and claim that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (*see* Section 1.d.). Poorly trained and inadequately equipped to investigate crimes, police officers often attempted to solve crimes by rounding up likely suspects and then extracting confessions from them by force. In July 2001, Amnesty International alleged that as a result those responsible for 95 percent of recorded crimes never are apprehended and brought to justice.

By year's end, no official results of the PGR internal investigation into the April 2001 federal police beating of Angel Abel Duran had been released.

During the year, the Mexico state CEDH closed its investigation into the 2001 beating of Alvaro Rayon because it was unable to locate him at the address that he provided, and he failed to provide more information on the incident.

There were no developments in the February 2001 torture of Norberto Jesus Suarez Gomez, the head of the PGR's Chihuahua state office. The PGR had accepted the CNDH's recommendations and suspended 16 officials pending criminal and administrative investigations. Suarez remained in custody on illegal enrichment charges.

On September 18, the Michoacan state human rights office reversed its March 2001 dismissal of allegations made by Ivan Ramirez and Israel Molina that they were tortured in 2000 in Nueva Italia because it determined that its original investigation had not been conducted properly.

There were no developments in the 2000 case of Jose Luis Mendez Briano and Fernando Martinez Beltran, who allegedly were tortured after being arrested while making their getaway from a robbery.

There were no developments in the case of the former president of the Guerrero state PRD, David Molina Francisco, who alleged that he was held hostage for 40 hours by military personnel in April 2000. In June 2000, the Guerrero CEDH forwarded the case to the CNDH for further investigation.

A 1998 report by the IACHR described a definite pattern of rape and sexual assault against women committed by members of the security forces. The Commission stated that some women had been assaulted sexually by law enforcement officials, particularly those in detention, or had been assaulted by others with the officials' consent.

On February 16, in Acatepec, Guerrero members of the 41st Infantry Battalion allegedly raped 17-year-old Valentina Rosendo Cantu when she was washing clothes by a creek. On March 22, in Ayutla, Guerrero three soldiers from the 41st Infantry Battalion allegedly raped Ines Hernandez Ortega in her home. Eight other soldiers stole some meat she had in the house. CNDH officials were investigating these rapes. SEDENA denied the accusations; however, it promised to assist civil authorities in the investigations.

Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

By year's end, the PGR had not finished preparing a manual called "Procedure Model for the Detection of Torture" based on the UNHCHR's manual for training on the investigation and documentation of torture, based on the Istanbul Protocol.

Police abuse and inefficiency hamper investigations. In November 2001, the bodies of eight young women who had been raped and killed were found in an empty lot adjacent to a busy intersection in Ciudad Juarez. State authorities arrested two bus drivers accused of the crimes within 3 days but the drivers alleged their confessions were obtained under torture. Their attorney was subsequently shot and killed by the State Police following a high-speed car chase during which the attorney called his father and reported that he was being pursued. The police originally alleged that he had died of injuries received when his car crashed but were forced to retract that information when it was revealed that he had been shot in the head. The officers involved in the case were questioned but never charged nor disciplined. As of September, they continued in their official capacity. The bus drivers remain jailed pending sentencing (*see* Section 5). There have been 325 women killed in Ciudad Juarez since 1993.

Police corruption is a problem. Police have been involved in kidnappings, armed robbery, and extortion, as well as protection of criminals and drug traffickers. There have been more arrests of security forces this year. For example, the Public Safety Secretary for the Federal District (SSP), Marcelo Ebrard Casaubon, cracked down during the year on police corruption and abuses. At year's end, 72 SSP officers had been incarcerated, 26 for homicide and the remainder for other violations including robbery. Police corruption is a problem. On April 10, troops from the Army and agents from the AFI supervised by the Special Branches of the PRG lured over 150 municipal and state police officers from throughout northern Baja California for a meeting, then arrested more than 50 officers for corruption. Several of those arrested were high-ranking police officials, including the police chief of Tijuana. Military aircraft flew a number of these officers to Mexico City. Many were later released by the authorities.

During the year, the Internal Affairs Division of the Chihuahua state Judicial Police investigated approximately 104 complaints against police officials for corruption, bribery, threats, abuse, murder, and kidnaping. Among the cases being investigated was the murder of a former state police officer by a member of the special Joint

Federal-State Anti-Organized Crime Unit called Grupo Orion. In January the interim mayor of Ciudad Juarez dismissed 140 city police for drug abuse, theft, and running protection rackets for drug smugglers.

In the past, there were reports that police extorted money from street children, at times abused homosexuals (see Section 5), and violated the rights of illegal immigrants (see Section 2.d.).

Prison conditions remained poor. Many prisons are staffed by undertrained and corrupt guards. Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. In many prisons inmates exercise authority, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs are the chief methods of control used by prisoners against their fellow inmates. Prisons vary widely in their ability to meet basic needs of life, keep prisoners safe and healthy, and provide opportunities for work and education; however, almost all fall short of these aspirations.

The penal system consists of 448 facilities: 5 federal penitentiaries, 8 federal district prisons, 336 state prisons, and 99 municipal and regional jails. According to the Public Security Secretariat, as of July, there were 174,057 prisoners; 101,485 were serving their sentence, and 62,572 were awaiting sentence. Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were disregarded routinely as a result of overcrowding. Prison overcrowding continued to be a common problem, despite an early release program endorsed by the CNDH, legal reforms that reduced the number of crimes that carry mandatory prison sentences, and the construction of new prisons. According to the Secretariat for Public Security, the country's 446 penal facilities are overpopulated by approximately 28 percent; 174,057 prisoners are being held in facilities that have a capacity of 136,447 prisoners. In July the Secretariat announced that Baja California at 189 percent and Sonora at 130 percent, were the most overpopulated state prison systems; in Nayarit the rate of overpopulation is 75 percent, in Chiapas 98 percent, in Sonora 82 percent, in Tamaulipas 66 percent, in Oaxaca 21 percent, in Puebla 25 percent, and in the Federal District 53 percent. The prisons with the largest overpopulation are: Reclusorio Norte, Reclusorio Oriente, and Reclusorio Sur in Mexico City, the state prison in Ciudad Juarez, and La Mesa prison in Tijuana. In July the Secretariat reported that the total capacity of existing facilities in Mexico City is 14,864; however, they held slightly more than 22,814 inmates.

At year's end, the population of the prisons in Ciudad Juarez was 3,628. In August the director of the state penitentiary stated that 1,537 inmates slept in the corridors of the prison because there were neither beds nor cells for them as a result of overcrowding. A new prison originally scheduled for completion in 2000 may be completed by late 2003.

Health and sanitary conditions are poor. In 2000, doctors at a prison in Nuevo Laredo resigned, citing unhealthy conditions such as inadequate food and water as the reason for their resignations. They stated that conditions such as mange, HIV/AIDS, and tuberculosis are known to the authorities who fail to take any action to treat and segregate sick inmates. In March 2001, the CNDH reported that HIV/AIDS and associated illnesses were the leading cause of death among inmates in the Federal District. The deaths of 20 inmates from HIV/AIDS-related complications in 2000 underlined the need for awareness, prevention, and treatment programs. The CNDH also noted that HIV-positive prisoners are subject to mistreatment and discrimination in prisons (see Section 5). For example, the Multisectoral Group of Citizens with HIV/AIDS claimed in 2001 that 30 HIV-infected inmates in the state prison in Merida, Yucatan suffered discriminatory treatment and insufficient access to health care. There were no developments in the case of Eugenio Almaraz Garcia, who died in 2000 from presumed neglect by the director of the Pochutla, Oaxaca prison.

In August approximately 2,000 federal, state, and municipal police agents, as well as military elements, participated in a surprise dawn raid to transfer 2,200 inmates from La Mesa prison in Tijuana, Baja California to a new prison at El Hongo, Tecate, Baja California and other installations. La Mesa housed 6,400 inmates in a facility designed for 1,800. The CNDH has labeled it the worst detention facility in the country. Cells were converted into apartments and sold for \$300 (3,000 pesos) per month in a facility where 4,500 prisoners had neither a cell nor bed in which to sleep. An entire city existed within the prison complete with 150 commercial enterprises, such as stores, taco stands, and restaurants, all run by inmates. Prisoners' spouses and children (100 women and 220 children) lived with them within the prison.

Female prisoners are held separately from men. Women make up approximately 4.5 percent or 7,841 of the 174,057 total prison population. Of the 448 prison facilities in the country, 230 of them house female prisoners. A new prison for men was under construction in Mexico City during the year and expected to be completed in March of 2003. The prison will have the capacity to house 2,346, thereby alleviating some of the prison overcrowding in the Federal District.

In April the Director of the State Penitentiary (CERESO) in Ciudad Juarez announced that the authorities had dismantled a prostitution ring in the CERESO. In addition, prison authorities discovered that prostitutes from the outside were operating within the prison walls during visiting hours.

Juveniles are held separately from adults.

Drug use continued to be a major problem in the Ciudad Juarez prison, with over 70 percent of the prisoners suffering some form of addiction. A new rehabilitation program in the prison can accommodate only 70 prisoners at a time. On March 23 and 24, prisoners in Ciudad Juarez rioted, demanding drugs and protesting an attempt by prison authorities to slow the flow of drugs into the prison. Major structural damage, including looting of the infirmary, occurred. In September 130 prisoners suffering from withdrawal symptoms in the prison in Chihuahua City rioted, destroying part of the cellblocks and damaging the infirmary. In the aftermath of the riots, prisoners who participated in the violence, as well as some who did not, were transferred to other prisons. Families of the transferred prisoners were unable to locate them. In April and September, inmates in the Ciudad Juarez prison were killed, reportedly for drug-related business. In May the authorities found a tunnel that went from outside the walls of the prison into the area of the prison in which most drug traffickers are held. The juvenile detention center in Ciudad Juarez suffered two riots during the year. On June 22, juveniles rioted, severely damaging one of the buildings, after a guard allegedly beat a detainee. On February 7, several members of a gang started a disturbance to cover their plans for an escape. Others joined in and by the time state police had quelled the riot, over 100 juveniles had taken part.

There is no specific law or regulation that prohibits human rights organizations or other NGOs from visiting prisons, and some do; however, in practice, the CNDH and state human rights commissions conduct the majority of prison visits focused on human rights issues. In July the International Committee of the Red Cross (ICRC) regional office in San Cristobal de la Casas and the Government agreed that the ICRC could visit prisoners in Chiapas, Queretaro, and Tabasco with only prior notification of the visit to prison authorities. The ICRC notifies the Ministry of Foreign Relations and receives prior permission to make prison visits to other areas of the country.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily (*see* Section 1.b.). Arbitrary arrest and detention continued to be among the most common human rights abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime. In June 2001, the federal legislature criminalized forced disappearance, including illegal detentions; the law also prohibits sponsoring or covering up an illegal detention (*see* Section 1.b.).

NGO sources report that a great number of disappearances eventually are found to be cases of arbitrary detention by security forces (*see* Section 1.b.). Many human rights groups link torture to the prevalence of arbitrary detention and claim that torture often follows an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempt to justify the detention by securing a confession to a crime (*see* Section 1.c.). According to PRODH, incommunicado detention is a frequent practice (*see* Section 1.c.).

Reports of arbitrary detention occurred with greatest frequency in Chiapas, Oaxaca, Guerrero, the Federal District, and Tabasco. The states' attorney general personnel, state police, and the army were the most frequent abusers of detention laws. In June 2001, the newspaper *La Jornada* reported that between January and June 2001, the Attorney General's office had received 62 complaints for arbitrary detention and an equal number for detentions longer than the legal limit. During the year, the CNDH reported that it had received 293 complaints, 18 for alleged torture, against the PGR, making it the Government agency with the most complaints lodged against it.

From October 26 to November 6, a U.N. Working Group on Arbitrary Detention visited the states of Guerrero, Oaxaca, Jalisco, Mexico, and the Federal District. The group concluded that arbitrary arrest in the country was generated by corruption

and the notorious impunity enjoyed by those who commit it—police and military—and by the tolerance of this practice within the police structure.

In February Amnesty International reported the continued use of arbitrary detention, torture and ill-treatment by government authorities, especially state government authorities, carrying out policing operations.

In June 2001, the CNDH reported that arbitrary detentions constituted a common practice of the Federal Judicial Police (since reorganized and renamed as the AFI) as well as of other police bodies, and urged the PRG and the SSP to expand human rights training concerning arbitrary detention; to issue specific orders to their police forces to halt arbitrary detentions immediately; and to instruct prosecutors to protect persons who may have been detained arbitrarily.

In February the UNHRC declared illegal and arbitrary the 1999 capture of four suspected members of the Revolutionary Army of the Insurgent People (ERPI)—Jacobo Silva Nogales, Carlos Gracia Rosales, Gloria Arana Agis and Felicitas Padilla Navas—accused of organized crime, storing firearms, and possession of ammunition. The Commission stated that the Universal Human Rights Declaration and the Treaty on International Civil and Political Rights had been violated. However, the four remained in detention at year's end pending the decision of the first district judge in Toluca.

In February the Mexico state human rights commission (CDHEM) recommended that the mayor of Atizapan take action against Rosendo Rojas, a municipal police officer, who took a minor from his classroom and detained him illegally following a fight with another student outside the school grounds. The CDHEM also recommended that the municipal police receive training regarding arrest and detention. The police officer in question was being held on charges of murdering another minor at year's end.

In July the CNDH issued a recommendation with respect to the arbitrary detention and abuse of 69 members of the San Jose community in Chiapas. At least 40 were injured during a July 2001 Judicial Police operation to rescue 6 government employees who were being held by local sympathizers of the Regional Independent Campesino Movement-National Ayala Plan Coordinator (MOCRI-CNPA) as a form of protest.

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. In practice, judicial and police authorities frequently ignored these time limits (*see* Section 1.e.). Criminal defendants often were held with convicted prisoners (*see* Section 1.c.). There were previous reports that police demanded bribes to release suspects (*see* Section 1.c.). Many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges (*see* Section 1.e.). Those able to pay were released from custody. Corruption is rampant throughout the criminal justice system.

Judges often failed to sentence indigenous detainees within legally mandated periods (*see* Section 1.e.). In 1996 the CNDH reviewed 8,661 files of indigenous persons who were detained and recommended the immediate release of 1,727 persons. In 1999 the CNDH signed an accord with the Secretariat of government, the PGR, the Federal Institute of the Public Defense office, and the National Indigenous Institute (INI) to develop a program for the early release of indigenous prisoners in federal prisons. INI intervention resulted in the early release of 802 indigenous prisoners in 1998, 1,197 in 1999, 596 in 2000, and the preliminary figure of 531 in 2001.

In September President Fox reported that 107 prisoners associated with the EZLN had been freed as a result of coordinated efforts of the Commission for Peace (COCOPA) and federal and local authorities. Under the National Indigenous Institute's (INI) Program for the Procurement of Justice for the Indigenous Peoples, the Federal government, through the PGR, SSP, CNDH and the Federal Institute of Public Defenders, 1,105 local and federal prisoners have been released in the past 18 months. The PGR, through its Special Prosecutor for the Attention of Indigenous Affairs, was working on 1,300 cases to request minimum sentences or transfers to social readaptation centers.

Federal prosecutors continued to adhere to the INI's recommendation that they drop charges against indigenous first-time offenders accused of drug cultivation, as drug traffickers often forced indigenous defendants, who were not aware of the legal significance of their actions, to grow the crops. The INI also supports programs to provide translators for indigenous defendants and to assist them in obtaining bail bonds.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities are in fact political detainees. The Government asserts that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

The law does not permit forced exile, and it is not practiced.

e. Denial of Fair Public Trial.—The judiciary is generally independent; however, on occasion, especially at the state level, it has been influenced by government authorities. Corruption, inefficiency, impunity, disregard of the law, and lack of training continue to be major problems. Judicial reforms have begun to address some of these problems, but full resolution of these problems requires significant additional time and effort. In 1999 the Congress and the states passed constitutional reforms designed to streamline the administration of justice and repeal archaic laws. Human rights groups criticized these reforms, claiming that they effectively allow prosecutors to disregard defendants' allegations of violation of due process during criminal proceedings.

In April U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, issued a 52-page report regarding the evaluation mission that he conducted in May 2001. In his report, he questioned the independence and effectiveness of judicial power in the country. He expressed concern about the lack of knowledge that judges have regarding international law, particularly human rights, and their ignorance of indigenous uses and customs. He wrote that 50–70 percent of the judges in the country were corrupt. In reply, the Chief Justice of the Supreme Court questioned how the Special Rapporteur could reach his conclusions when he only visited two states and the Federal District.

During the year, the Federal Judicial Council continued to strengthen administrative control over the judiciary, investigated cases of corruption, and removed some corrupt judges. In 2000, the Institute for Professional Training of the Mexico City Attorney General's office initiated workshops and courses directed at officials who deal with prosecutions, including the prosecutor's office, official secretaries, judicial police, and police group leaders. The course material encompassed case management, scientific investigation techniques, legal framework, and evidence collection. These workshops and courses continued through year's end. However, at year's end, Human Rights Watch (HRW) reported that little had been done to remedy the systemic problems of the justice system, which allowed human rights abuses to go uninvestigated and unpunished. In December 2000, HRW asserted that deficiencies in the administration of justice still were a major concern, and repeated its 1999 statement that judicial reforms have done little to improve the problems that plague the justice system. The December 2000 report stated that prosecutors not only ignored abuses by police but also fabricated evidence. Judicial oversight was seriously inadequate as the courts accepted evidence obtained through human rights violations (*see* Section 1.c.), and judges cited legal precedents that weakened human rights protections.

By year's end, six judges or magistrates had been dismissed since January 2000, only one of these for corruption. In February 3 employees of the Federal District Superior Court were sentenced to 63 months in prison for aggravated extortion. In June Fernando Alonso Lopez Murillo, a federal judge, was suspended from his duties while being investigated for a series of irregular findings in high profile narcotics trafficking cases. In the most prominent case, Lopez Murillo reduced the sentence imposed on and dismissed some of the weapons charges against Hector Luis Palma, a major drug trafficking figure. Eventually Palma paid a fine rather than go to jail. Lopez Murillo also dismissed charges against another known trafficker, Oscar Malherbe.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. However, in July 2001 Amnesty International alleged that judges often are not present at hearings when defendants give testimony. Court officials may add notarized documents that are not authenticated into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although by special motion the victim may have access to it.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government generally respected these rights in practice. In general court hearings are open to the public, and it is common to find not only the accused, but also relatives of the accused and journalists in the courtroom. However, human rights groups complained that many hearings take place in busy judicial offices where the public generally must stand at a distance and often cannot hear the proceedings well. In some courtrooms glass or plastic panels have been placed between the tables where the proceedings take place and the public.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often did not ensure adequate representation for many poor defendants. Moreover, the public defender system is not adequate to meet the demand, although improvements in salaries and benefits have ameliorated this situation. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings. Prosecutor salaries and benefits vary by region and agency. Federal prosecutors usually are paid better than state prosecutors.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely furnish translators for indigenous defendants at all stages of criminal proceedings, and thus defendants may be unaware of the status of their cases. Provision of translators to non-Spanish speaking defendants, including indigenous ones, is provided for but poorly implemented, resulting in prisoners being convicted without fully understanding the documents they have been required to sign. The CNDH, through the Fourth Inspector General's office, has a program to assist incarcerated indigenous defendants. The INI also has judicial assistance programs for indigenous defendants and provides counsel on their behalf. The INI also distributes legal, educational, and informational material in indigenous languages.

A particularly serious abuse of due process is the prosecution's ability to base its case on evidence gathered by means of torture. While torture itself is a criminal act, judges allow statements coerced through torture to be used as evidence against the accused (*see* Section 1.c.) and confessions are the primary evidence in many criminal convictions. A number of NGOs declared that judges give greater evidentiary value to the first declaration of a defendant, thus providing prosecutors an incentive to obtain an incriminating first confession and making it difficult for defendants to overturn such declarations.

The law does not require civil trials of soldiers involved in civil crimes, and the military continued to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request the immediate transfer of the case to military jurisdiction. In August the judicial branch reaffirmed that members of the military assigned to the PFP would be tried by military courts unless a civilian was involved. The ruling came as the result of a court case involving an active duty military member of the PFP. A military judge declared that he was not competent to hear the case because "military commissioned into the PFP are temporarily separated from the armed services and work for a civilian entity". A civilian judge who received the case declared that the perpetrator was military and was under the jurisdiction of the Secretary of Defense. The case was returned to the military court. In this instance the court ruled that because the PFP member was considered on active duty—obeying military orders and technically dependent on the Military Police—and therefore, administratively under the Secretary of Defense, and the victim was also active duty military, the military court had jurisdiction over the case.

On September 26, the PGJM indicted Generals Humberto Quiros Hermosillo and Arturo Acosta, on charges of aggravated homicide during the "Dirty War". The generals are accused of the death and disappearance of over 130 individuals in the state of Guerrero during the period 1971–78. Human rights organizations called into question the indictment and the fact that the generals would not be tried by civilian courts, but rather in military courts. The generals remained in custody as an investigation into charges of narcotics trafficking and assisting the Ciudad Juarez-based Amado Carrillo drug cartel continued.

In December 2001, Human Rights Watch issued a report that called on the Government to end military jurisdiction over all cases involving human rights violations. The report found that the military justice system lacks transparency because civilians are barred from monitoring the progress of investigations. In addition, investigations by the military are not accountable to civilian authorities.

On February 7, the Government released General Jose Francisco Gallardo Rodriguez. His sentence was reduced under the Code of Military Justice to 8 years, the minimum time to be served under his two nonconcurrent sentences of 14 years each, which Gallardo completed in November 2001. During the year, Gallardo continued to maintain his innocence and worked to clear his name.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the protection of privacy, family, home, and correspondence, and the law requires search warrants; however, in the past there were credible

reports that unlawful searches without warrants were common, and there were reports of such searches during the year (see Section 1.c.).

The law allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance for electoral, civil, commercial, labor, or administrative purposes. However, there were reports of illegal surveillance during the year.

In January police arrested three persons when they were replacing a tape recorder in a telephone switch in Polanco, an affluent sector of the Federal District. The three persons initially claimed to be employees of the local telephone company and then claimed to be working for a private law firm. No reason was given for the placement of a recorder at the switch. Investigation into the case was ongoing at year's end. Two days earlier, two persons were seen placing a tape recorder at a TELMEX drop in Lomas de Chapultepec, an area of Mexico City where many affluent families live.

In February the Queretaro state human rights ombudsman Bernardo Romero accused the state's governor of intimidation through telephonic espionage. The governor denied the claims and demanded presentation of evidence. Romero said he also had received telephonic threats and sent a letter to the PRODH director requesting the intervention of the IAHCR.

In May microphones were found in the office of the Federal District Secretary of Finance. Federal District Head of government Andres Manuel Lopez Obrador demanded that the Federal government investigate. Wiretapping is a federal crime.

In July the Congress of the state of Mexico approved a law that would allow the Attorney General to solicit permission from a federal judge to wiretap and to have access to bank accounts as part of the investigative process against organized crime. The Federal District Attorney General supported the measure calling the current process bureaucratic and slow.

The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The 1984 General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without a woman's consent. In September 2001, Rodrigo Aguilar Martinez, president of the Episcopal Commission for the Family of the Roman Catholic Church, told the press that public health institutions "frequently" performed sterilizations in marginalized communities, especially indigenous areas. Aguilar claimed that priests and religious workers working in these areas were familiar with the problem, but that it was difficult to prove these cases if individuals decided to present their complaint to judicial authorities. Aguilar's claims have not been corroborated by government sources, but various social welfare observers believed that forced sterilization occurred, although the incidence of these procedures is difficult to quantify. Women may not realize that procedures have been performed until after the fact, and many victims allegedly were reluctant to file complaints, although there are mechanisms for filing formal complaints with the National Medical Arbitration Commission and with national and state human rights commissions. In 2000 the CNDH office in Chiapas reported that in some indigenous communities women chose sterilization, but then due to fear of reprisal from their husbands reported that it was forced upon them or that they simply did not understand the nature of the procedure.

In compliance with a CNDH recommendation, in April state authorities provided compensation of \$2,040 (20,000 pesos) each to 16 persons who were sterilized by state health officials in Guerrero in 1998.

In February the CNDH reported that in 2001 it had received seven complaints of forced sterilizations. On December 16, the CNDH reported that local community health practitioners have forced birth control methods (IUD for women, vasectomies for men) on indigenous patients without their informed consent. Many of these patients neither read nor write Spanish and sign medical consent documents that they do not understand by means of a fingerprint.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—There were numerous allegations of the use of excessive force and the violation of international humanitarian law. During much of the year, the Government maintained approximately 14,000 to 20,000 troops in selected areas of Chiapas, and a smaller number in Guerrero. Two relatively small rebel groups, the Popular Revolutionary Army (EPR) and the Revolutionary Army of the People's Insurgency (ERPI), continued to be problems in Guerrero. Incidents of conflict in Chiapas between security forces and EZLN sympathizers, and in Guerrero between the army and the EPR and the ERPI, led to accusations of the use of excessive force; however, the confused circumstances of these clashes made those allegations difficult to substantiate.

The peace process in Chiapas between the EZLN and the Government remained at a standstill. There has been no communication between the EZLN and the Gov-

ernment since April 2001. In July the PRODH said the impasse demonstrates that the Government lacks a cohesive strategy to attend to the conflict in Chiapas. In August the current president of the Peace Commission (COCOPA), Felipe de Jesus Vicencio Alvarez, said that the commission was working on an initiative to revive the peace process talks.

The Government maintained a military presence in parts of Chiapas. Some NGOs continued to call the military's presence threatening and intimidating to the indigenous population. In July and August, NGOs reported an increased military presence in Chiapas. Military authorities claimed that the perceived increase was due to troop rotations and more patrolling.

On May 14, the International Civil Commission for Observance of Human Rights (CCIODH) reported that military over-flights, along with a gradual increase in military patrols and checkpoints had caused special concern to the indigenous communities in Chiapas. The commission also said the military units harassed and intimidated the indigenous population by improvising checkpoints around towns.

In May the Fray Bartolome de las Casas Human Rights Center (Frayba) released a 245-page report that documented the displacement since 1995 of more than 12,000 persons from 2,400 families in Chiapas. The report accused the Government of being responsible for the displacements and not keeping its constitutional commitment to provide for the security of its citizens as well as its obligation to provide humanitarian assistance to internally displaced persons (IDPs) under international law, including human and humanitarian rights.

In July the PRODH stated that social justice in Chiapas depended in great measure on whether reconciliation process can reconstruct the social fabric that had been deteriorating for 8 years. It said that armed civilian groups constitute a latent threat because they continue to operate and provoke displacements of persons.

Human rights organizations have documented 45 human rights violations in Chiapas during the first 6 months of the year, 20 by the military, 11 by state public security agents, 8 by the state judicial police, 4 by federal judicial police, 1 by municipal police and 1 by the PFP. There were also 14 incursions by the military into communities, 9 patrols, 6 interrogations, 3 incidents of weapon firings, 2 eviction threats, two illegal detentions at checkpoints, 1 intrusive search, and 1 case of destruction of property. In addition, armed civilian groups committed three human rights violations.

Human rights NGOs complained about the intimidation of the indigenous population in Salto de Agua, Palenque, and Masoha Shucja in the northern part of Chiapas. They accused soldiers of entering communities and, in some cases, firing automatic weapons. In one case, in Shucja, a military officer identified as Captain Vicente Ambriz Ronces arrived 30 minutes after the alleged shooting occurred to investigate the incident. Military authorities described the incidents as soldiers' hunting for iguanas.

SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with a 4-month human rights course to teach officers to be human rights trainers. These officers (183 so far) are responsible for training at the different unit level within the Army and Air Force. By year's end, SEDENA had not created a military human rights ombudsman as suggested by UNHCHR Robinson in 1999.

There were credible reports of violent incidents and killings committed by armed civilian groups and local political factions in Chiapas. On March 22, a confrontation between supposed members of PRI and PRD led to the killing of one person and the wounding of three others.

On August 7, Jose Lopez Santiz, an EZLN sympathizer, was killed near the community of August 6, close to the city of Altamirano Chiapas. An 11-year-old witness identified the killer as Baltazar Alfonso, a businessman from Altamirano. Lopez had reportedly received death threats from local members of the PRI. Police opened an investigation into the killing. Chiapas state governor Pablo Salazar Mendiguchia and government secretary Emilio Zebadua Gonzalez traveled to Altamirano to try to defuse tensions caused by the fear that the Lopez' associates would seek revenge. Salazar promised to bring the killers to justice.

There were violent confrontations between EZLN sympathizers and armed civilian groups during the year. On August 26, two EZLN sympathizers were killed in Amaytik, Ocosingo municipality, in Chiapas. The state Attorney General attributed the killings to an "inter-family" problem.

Human rights NGOs have accused the Salazar administration of tolerating armed civilian groups. In September Salazar called for the PGR to determine if armed civilian groups were present in Chiapas. Salazar said in an interview that he could neither confirm nor deny the existence of armed civilian groups and believed that it was the responsibility of the PGR to investigate.

On September 13, Chiapas state police arrested 26 members of the "Peace and Justice" group. Human rights NGOs attribute more than 300 killings between 1995 and 1998 to the group. Although originally identified as part of the PRI organization, in 2000 the group supported Salazar because the PRI would not give it political positions at the state and local level. The police arrested the members in the group's stronghold of Tila, in northern Chiapas. Sabelino Torres Martinez, identified by the state Attorney General's office as one of the leaders of "Peace and Justice", faced charges of homicide, causing bodily harm, and illegal possession of firearms.

On August 26, at least two persons died and seven were injured in a clash between EZLN sympathizers and alleged armed civilian groups near Amatic, a town in Ocosingo, Chiapas, according to the authorities of the autonomous municipality Ricardo Flores Magon and press reports. The Attorney General's office attributed the clash to a dispute between families. The report could not be confirmed.

In September Oaxaca Ministerial Police arrested Antonio Roque Cruz, former mayor of Santiago Amiltepec, and 11 other persons who were carrying large caliber weapons. Roque is suspected of being a member of a paramilitary group and responsible for the February 2 deaths of Maria Magdalena Torres Torres and Lorenzo Lopez Jimenez.

On May 30, Erika Zamora and Efen Cortes Chavez were freed from prison after a federal tribunal absolved them of the charge of inciting rebellion and conspiracy, in connection with the 1998 battle in El Charco, Guerrero, between the military and alleged elements of the ERPI guerrilla group that resulted in the killing of 12 persons. In 1998 they were found innocent of organized crime, terrorism, and storing weapons.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, harassment of journalists by various sources, especially by narcotics trafficking organizations in the northern part of country, continued during the year. The mass media are not subject to formal censorship by the Government; however, there were in the past reports of some self-censorship. In addition, violence and threats against journalists primarily by narcotics traffickers and on occasion by the authorities hindered press freedom. Nonetheless the freedom and independence of the media continued to expand. Many observers believe that drug trafficking organizations or corrupt security personnel in their pay carried out most of the attacks on the media.

The traditionally close relationship between the Government and the media that tilted coverage and editorial opinion in the Government's favor during 71 years of PRI rule changed significantly. The Government no longer controls the import and sales of newsprint, but does retain control over broadcasting licensing, which critics claim led some broadcast media to practice self-censorship. However, the two principal television networks, Televisa and TV Azteca, frequently criticized and challenged government actions at the federal, state, and municipal levels. On October 10, the Federal government, by presidential decree, reduced its right to use 12.5 percent of broadcast time to 18 minutes of television and 35 minutes of radio broadcast time per day. Official advertising in the media continued, but state and municipal governments were more likely to purchase news coverage, via news articles known as "gacetillas," than the Federal government. In the past, there were allegations of cash and noncash payments to journalists; however, there were no major allegations during the year.

On June 11, President Fox signed the Law for Transparency and Access to Information, enabling the public to request and receive information from all state entities, as well as from public and private agencies that manage public funds. The law had not been fully implemented throughout the country by year's end. The opening of previously sealed files caused a reexamination of many painful episodes in the country's history, such as the 1968 Tlatelolco massacre and the 1971 "Jueves de Corpus" massacre. Past presidents such as Luis Echeverria and Jose Lopez Portillo have been called to testify about their involvement in these massacres (see section 1.b.).

The numerous attacks on journalists constituted the most serious problem for press freedom. The Committee for the Protection of Journalists and Media Communications reported that in 1999 there was a decline in the number of acts of intimidation, including physical attacks, threats, and detentions, against journalists; from 202 in 1998 to 135 in 1999. A 1999 report issued by 4 NGOs recorded 240 attacks of various types against journalists during 1998, compared with 187 during 1997. These numbers included all aggressive acts against the media as reported in the media. According to the report, government institutions (including federal, state,

and local police) or officials were responsible for 41 percent of the incidents. However, in August, Juan Francisco Ealy Ortiz, the country's representative on the IAPA's Commission on Freedom of the Press and Information, reported that acts of intimidation against journalists by narcotics traffickers had replaced official harassment by earlier administrations as the most serious threats that journalists face in the country. Francisco Barron, Director of Communication at the National Center of Social Communication, an NGO, added that the Fox Administration was more willing to investigate corrupt government officials alleged to be working in collusion with narcotics traffickers.

Outright attacks and intimidation of journalists are underreported, and there are no comprehensive nationwide studies of these incidents. In addition, the Government has not investigated sufficiently the cases that were reported, such as those included in the "Damages Inventory," a summary published by the Protection Network of Journalism and Media (PNJM). The PNJM reported that there were 101 incidents of press intimidation and harassment in 2000, down from 135 cases reported in 1999. Abuses against the press included physical assaults, legal complaints against journalists, and threats. Sixty-one percent of these complaints were directed against print journalists. The PNJM observed that direct aggression against the media and journalists was declining; however, pressure groups were increasingly using broadly interpreted or discretionary legal maneuvers to work against press freedom.

Forty-eight percent of all acts of harassment against journalists occurred in the Federal District. States reporting the next largest amounts of harassment were Guerrero, with 8 percent of all cases, and Chihuahua, with 5 percent of all cases. Harassment was also reported in the states of San Luis Potosi, Baja California, Campeche, Mexico, Michoacan, Nuevo Leon, and Veracruz.

On May 31, Gustavo Ramos, president of the Fresnillo Autonomous University (UAF) board of directors, and Rector Jesus Bonilla Elizondo assaulted Humberto Casarez from the Imagen newspaper published in Fresnillo, Zacatecas state, after it published information on alleged acts of corruption by the UAF directors. On June 24, officers from the Pachuca, Hidalgo state municipal police assaulted Inving Leflor Magain, a camera operator for Telemundo, while he and 20 other journalists covered a demonstration. Leflor subsequently filed a lawsuit against municipal police.

The International Press Institute reported that three journalists were murdered during the year.

On January 18, two gunmen shot and killed Felix Alonso Fernandez Garcia, editor of the weekly magazine Nueva Opcion, in Miguel Aleman, Tamaulipas state. Shortly before his killing, Fernandez had received death threats for his reporting about alleged links between the city's former mayor and drug traffickers.

On February 1, an unidentified assailant killed Julio Samuel Morales Ferron, columnist for the daily El Sol de Medio Día, in Mexico City.

On October 11, an explosion in his apartment killed Jose Miranda Virgen, journalist and vice president of the daily El Sur de Veracruz. The police stated that a gas leak had caused the explosion; however, local media noted that the apartment's living room had received more damage than the kitchen when the leak supposedly occurred. Pablo Robles Barajas, the newspaper's director general noted that Miranda had just written a series of articles linking state police officers to drug traffickers. The Association of Veracruz Journalists (APEV) asked Veracruz Governor Miguel Aleman to order the state attorney general's office (PJEV) to investigate the case. Aleman issued the order, and the PJEV ruled that the explosion was accidental. The APEV disagreed with the PJEV's conclusion.

The International Press Institute reported that in May Eduardo López Betancourt, a contributor to the newspapers Excelsior and México Hoy and the magazine La Crisis, was forced to leave the country temporarily after unknown individuals threatened to kill his son.

Tamaulipas authorities continue to investigate whether the March 2001 murder of Saul Martínez of the Matamoros newspaper El Imparcial, was related to articles he wrote on illegal migrant smuggling and government corruption.

There were no new developments in the investigation into the February 2001 killing of Jose Luis Ortega Mata, editor of the weekly Semanario de Ojinaga based in Ojinaga, Chihuahua.

The Interamerican Press Society and the Committee for the Protection of Journalists (CPJ) reported that Jose Ramirez Puente, the host of a popular radio news program in Ciudad Juarez who was killed in 2000, was an undercover informant for the Investigation and National Security Center (CISEN). Investigations are underway to determine if his murder was linked to his work as a journalist or as an informant for CISEN. Following his murder, state judicial police found eight bags of marijuana weighing about two pounds each in the trunk of the car. Puente's rel-

atives claimed the marijuana was planted, and the case was transferred to federal jurisdiction. Since 2001 several members of the federal police force in Chihuahua have been dismissed for corruption.

On May 30, a three-judge appeals panel sentenced two men to a 13-year prison term for the 1998 murder of San Antonio Express-News reporter Philip True. The unanimous ruling overturned an August 2001 verdict acquitting the men.

There are approximately 300 newspapers operating (including local). Of these, there are approximately 10 main national newspapers. None are operated by the Government; however, the Government does operate several radio stations, two national television channels, and some local stations. Public universities run most of the public media.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers which continued to separate government and media interests. Moreover, as much of the national media has developed higher journalistic standards and independence in recent years, government influence has declined. The media showed a high degree of editorial independence, particularly in the capital and other major urban centers. Direct criticism of the Government, especially in radio and the print media, was common.

The CPJ believes that the country's criminal defamation law violates the basic freedom of expression and that no journalist should be jailed for his work. On March 11, the authorities arrested Maria Esther Martinez, of the daily *La Union de Morelos* for defamation after she had criticized the state Attorney General's office and the Ministerial Police. On April 1, police arrested Raquel Urban Hernandez of the weekly *Reporteros Informando* published in Ecatepec, Mexico state for defamation over a November 2001 article that criticized PAN legislator Alejandro Gamino Palacios for his alleged implication in the rape of a minor. She was released on bail. On May 8, Alejandro Junco de la Vega, president and publisher of the Mexico City daily *Reforma* was charged with defamation over a September 2001 article that charged that the Grand Commission of the Mexico state Chamber of Deputies had issued irregular payments of \$101,789 (969,000 pesos) to seven deputies. In April 2001, former Mexico City mayor Rosario Robles Berlanga brought charges of defamation against Junco and Carolina Pavon, a *Reforma* reporter, over an April 2001 story in which Pavon reported official allegations that almost 10 percent of the mayoral administration's 2000 budget had disappeared. In May the Writers in Prison Committee, a NGO, noted that the case was still being investigated by the Mexico City Attorney General's Office. Junco continues as *Reforma's* owner and Pavon continues to write for the city section of *Reforma*.

On August 19, the PGJE arrested journalist Isabel Arvide at the airport in Chihuahua City and charged her with criminal defamation, a charge that carries a possible sentence of 6 months to 2 years in prison. In June 2001, Arvide published an article on her web site and in the Mexico City daily *Milenio* that accused Osvaldo Rodriguez Borunda, owner of the Chihuahua newspaper *El Diario*, of involvement in drug trafficking and money laundering. Arvide was released on August 20 after posting a bond of \$10,000 (100,000 pesos). Arvide alleged that PRI national president Roberto Madrazo lured her to Chihuahua under false pretenses as part of a press contingency, specifically to be arrested, since the charges are state charges not enforceable in another state.

On October 17, Judge Catalina Reuiz Pacheco agreed to consider an application for the arrest of Oscar Cantu Murguia, editor of the daily *Norte de Ciudad Juarez*, and seven of his journalists; Armando Delgado, Manuel Aguirre, Gaudalupe Salcido, Rosa Isela Perez, Francisco Lujan, Antonio Flores, and Carlos Huertas. In January former Ciudad Juarez mayor Manuel Quevedo Reyes filed a complaint after the newspaper published a series of articles that alleged that the state government had paid an inflated price for land that Quevedo sold it. Arrest warrants were issued for the eight journalists. In November a federal judge granted one of the journalists, Armando Delgado, a legal injunction (*amparo*) to protect him from arrest and to determine if the state attorney general's office violated his rights by not permitting him to defend himself against the charges. In October the Inter-American Press Association accused Chihuahua Governor Patricio Martinez of using the state justice system to silence journalists. In October, the CNDH sent an official to Ciudad Juarez to investigate the case.

In June and December, the NGO *Reporters sans frontieres* reported that several journalists had been summoned to appear in court to reveal their sources. On June 12, Maribel Gutierrez, of the daily *El Sure* published in Acapulco, was questioned regarding her sources for articles that she wrote on the murder of Digna Ochoa (see Sections 1.a. and 4.) On November 18, journalists Enrique Mendez, Gustavo Castillo, Ruben Villalpando, Andrea Becerril, Ciro Perez, and Roberto Garduno, of

the daily *La Jornada*, were summoned regarding their sources for an article concerning a corruption scandal in the public petroleum company Pemex. On December 3, Daniel Moreno, news director for the daily *El Universal*, was questioned regarding his sources for an article published on June 16 regarding the same scandal. On November 17, CNDH President Jose Luis Soberanes affirmed that it is the right and obligation of journalists to refuse to reveal their sources. The CNDH emphasized that the continual summons of journalists intimidated and inhibited those who provide information. On December 4, Attorney General Rafael Macedo said that the purpose of summoning journalists to reveal their sources of information was to prevent public officials from "leaking" information. After public outcry over the PGR's actions, the PGR stopped summoning journalists to testify about their sources; however, this retreat did not rule out the possibility that the PGR would utilize similar techniques in the future.

On January 20, Ruben Rosas, Zamira Izaguirre, Jose Antonio Tirado and Jose Loya, anchors of a Ciudad Juarez radio station, protested publicly the cancellation of their radio show, allegedly due to pressure by the governor of Chihuahua state. According to the journalists' statements, the governor pressured the radio station to cancel their show after they harshly criticized the inefficiency of the authorities in solving the women's homicide cases in Ciudad Juarez (see Section 1.a. and 5). The Chihuahua state government denied all the accusations.

There continued to be no information on the whereabouts of Valentín Davila Martinez, a journalist with Radio Canon, who was reported as missing in Ciudad Juarez in August 2001.

The PGR closed its investigation into the 2000 death of Jose Ramirez Puente, the host of a popular radio news program in Ciudad Juarez as unsolved; however, an investigation by the state PGJ remained open at year's end but without any leads.

The Government does not restrict Internet access, which is widely available across the nation, especially in major cities. Some segments of the population, predominantly the poor and the elderly, cannot afford to use the Internet or do not possess sufficient computer skills. The Government is attempting to broaden Internet usage in rural areas via the "e-Mexico program."

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of assembly, and the Government generally respected this right in practice. The only requirement for holding demonstrations is that groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occurred frequently throughout the country.

There were many demonstrations during the year. From March 8–13 a group of women marched from Chihuahua City to Ciudad Juarez to protest the continued murders of women in Ciudad Juarez and the lack of interest displayed by authorities. Representatives of NGOs and relatives of murdered women participated in the march. On March 13, when the protesters arrived at the kilometer 38 checkpoint in Ciudad Juarez, a group of approximately 50 persons associated with the PRI party attempted unsuccessfully to stop the marchers from entering the city. However, several marchers were injured.

Until August there were routine demonstrations staged by small land owners from San Salvador Atenco, in Mexico state to protest an October 2001 expropriation decree signed by President Fox to use land in Atenco to build a new airport for Mexico City. Over the course of 10 months, the peasant land owners staged demonstrations to protest the planned expropriation of their properties at the low price of \$0.70 (7 pesos) per square meter. On July 11, the landowners seized local government officials and demanded the release of 13 protesters arrested during the riot, including 2 protest leaders. Both the hostages and the detained protestors were eventually released. One arrested protester, who suffered from various medical ailments that were aggravated by injuries sustained during his arrest, died after being transferred from prison to a hospital. The peasants claimed that he had died from lack of prompt medical attention and demanded an investigation into his death. On August 1, the Secretary of Transportation announced that the Government would not proceed with plans to expropriate land to build the airport.

The Constitution provides for freedom of association and the Government generally respected this right in practice. Political parties, opposition groups, and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political parties as well as political associations. Political associations can participate in elections through an agreement with a political party; however, they cannot use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the Federal Electoral Institute (IFE). The IFE has recognized 10 political parties and 36 political groups. Parties must receive at

least 2 percent of the vote in national elections to maintain their registration. In July the IFE announced that political groups had presented 11 requests for formal registration; however, only 2, Mexico Possible and Liberal Progressive Party, had met the requirements for recognition.

Citizens are free to associate and may form private or charitable associations. However, in 1998 the Mexico City legislature passed a law that gave the city government more influence over private charities. According to the Secretariat of government's Directorate of Liaison with Social and Civil Organizations, there are 5,339 NGOs active in the country, which play an important and vocal role in the promotion of civil society.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and Congress may not enact laws that establish or prohibit any religion. The Government generally respected this right in practice; however, there were some restrictions at the local level. State and municipal governments generally protected this right; however, some village and tribal officials infringed on religious freedom, especially in the South. A generally amicable relationship among the various religions in society contributed to religious freedom; however, in some parts of southern Mexico, political, cultural, and religious tensions continued to limit the free practice of religion within some communities. Most such incidents occurred in the state of Chiapas.

Religious associations must register with the Under Secretariat of Religious Affairs of the Federal Secretariat of government (SSAR) to operate legally. Although the Government rejects applications because of incomplete documentation, the registration process is routine. An estimated 5,871 religious associations are registered.

To be registered as a religious association, a group must articulate its fundamental doctrines and religious beliefs, must not be organized primarily to make money, and must not promote acts physically harmful or dangerous to its members. Religious groups must be registered to apply for official building permits, to receive tax exemptions, and to hold religious meetings outside of their places of worship.

The SSAR promotes religious tolerance and investigates cases of religious intolerance. All religious associations have equal access to the SSAR for registering complaints.

The Constitution provides that education should not privilege one religion over another. Religious instruction is prohibited in public schools; however, religious associations are free to maintain their own private schools, which receive no public funds.

The Government requires religious groups to apply for a permit to construct new buildings or to convert existing buildings into new churches.

The Constitution bars members of the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the State.

To visit the country for religious purposes, foreign religious workers must secure government permission. The Federal government limits the number of visas each religious group is allowed. However, the Government has granted 33,930 such visas since 1994.

There were incidents of violence between religious groups, principally in Chiapas during the year. The situation in Chiapas is a result of a complex mix of economic, ethnic, political, and religious tensions. There is a history of religious intolerance in, and expulsions from, certain indigenous communities whose residents follow syncretistic (Catholic/Mayan) religious practices and view other religious practices as a threat to indigenous culture. In parts of Chiapas, local leaders of indigenous communities sometimes regard evangelical groups as unwelcome outside influences and potential economic and political threats. As a result, these leaders sometimes acquiesced in, or actually ordered, the harassment or expulsion of individuals belonging primarily, but not exclusively, to Protestant evangelical groups. In many cases, these expulsions involved the burning of homes and crops, closing down of churches, beatings, and, occasionally, killings.

The most common incidents of intolerance arose in connection with traditional community celebrations. Protestant evangelicals often resist making financial donations demanded by community norms that will go partly to local celebrations of Catholic religious holidays and resist participating in festivals involving alcohol. The abuse related to these and other incidents apparently did not occur solely and exclusively on the basis of religion. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were most often the basic cause of the problems.

On March 4, traditionalists burned the houses of 4 evangelical families in Mitzintón, where some 30 persons lived. One of the houses also reportedly had 17 bullet marks in it. Two hundred Protestant evangelicals left the community in

March, in response to threats of expulsion, but returned on April 3 despite fear of further threats. Protestant community members have been dissatisfied with the Government response to the incidents. The State Attorney General's office has initiated an investigation.

On May 1, approximately 20 Protestant evangelical Tzotzil community members, along with 2 National Action Party (PAN) council members, were harassed and detained by local leaders on charges of "religious and political intolerance." On May 6, in the community of Botatulan, six members of Jehovah's Witnesses were reputedly stopped by local leaders who demanded \$500 (5,000 pesos) in return for releasing them. These detentions have not been verified.

Tension between Catholic/Mayan syncretists and evangelical groups continues to be a problem in the municipality of San Juan Chamula. Approximately 130 children of evangelicals have been denied access to the local public schools in 6 communities every year since 1994. On August 19, a confrontation between traditionalist Catholics and Protestant evangelicals in the community of Tzajaltetic, in the municipality of San Juan Chamula, left five persons wounded. The incident occurred when Catholics did not allow Protestant parents to register their children at the local school. The Chiapas state Secretariat of government (SEGOB) initiated a dialogue with both parties to reach an agreement and avoid future confrontations.

In addition, local traditionalist/syncretist leaders in San Juan Chamula suspended services by Roman Catholic clergy in the municipality and later expelled two priests and a deacon from the area. On May 8, police arrested a Roman Catholic teacher after discovering a cache of arms and explosives in his cottage in San Juan Chamula. A Roman Catholic vicar in the community charged that the weapons were planted by Protestant leaders.

In February traditionalist Catholic community members in the community of San Juan Metaltepec Mixes, Oaxaca expelled a group of 20 Protestant evangelical families for their religious beliefs. This report could not be verified.

On November 5, a group of indigenous families who were Jehovah's Witnesses abandoned their homes in the communities of Tzajaltetic and Botatulan, in the municipality of San Juan Chamula in Chiapas. The group fled for fear of attacks against them by local bands of Catholics. They have been taken in by family members living in San Cristobal de las Casas, Chiapas.

On November 14, seven indigenous persons were wounded in a clash in the community of Tzetelton, in the municipality of San Juan Chamula in Chiapas. According to press reports, a group of indigenous Protestants attacked a group of Roman Catholics when the Catholics were meeting to plan for the December 12 Feast of the Virgin of Guadalupe.

On November 27, according to press reports four persons were hurt in a confrontation between two groups belonging to the same religion in the community San Pablo Atlazalpa, in Chalco, in Mexico state. The incident occurred when a group denominated "liberals" entered the local church of St. Peter and Paul to protest the naming of a new parish priest. The liberals clashed with another group of traditionalists within the church who support the newly named priest.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

Corrupt police sometimes violated the rights of illegal immigrants. Illegal immigrants rarely file charges in cases of crimes committed against them, because the authorities generally deport immediately such persons who come to their attention; many pending cases brought by illegal immigrants are subject to dismissal because the complainant is no longer present in the country.

From February 25 to March 18, the UN Special Rapporteur on Human Rights of Migrants, Gabriela Rodriguez Pizarro, visited the country to highlight the dangers of commercial sexual exploitation and trafficking in women and unaccompanied minors, many originating from Honduras, Guatemala, and El Salvador.

On July 25–31, Juan Mendez, IACHR President and Special Rapporteur for Migrant Workers and Their Families, visited the country and expressed concern about the security of migrants transiting the country. He also noted problems with overcrowding in migrant detention centers.

There also were credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants.

In April local police arrested 4 AFI agents in Chiapas for transporting 26 undocumented Central American migrants. Two other likely agents escaped in an unmarked vehicle with no license plates.

In August 2001, the CNDH opened its first office along the border with Guatemala in Tapachula, Chiapas to receive and attend to complaints of human rights violations from migrants, both documented and undocumented. Although the CNDH office received various complaints by migrants including assault, rape, and extortion, the cases are rarely pursued because the migrant departs the area and does not stay to provide follow-up information. According to the CNDH, the principal points of entry for migrants are Comalapa, Suchiate, and Tuxtla Chico.

Migrants who transit a halfway house in southern Chiapas have complained to the director about the double dangers of extortion by the authorities and robbery and killings by an organized gang called "Maras Salvatruchas" who prey on migrants coming from the south.

Reports of injury to and harassment of undocumented migrants continued around the country during the year (see Section 1.a.).

On August 19-28, the U.N. Special Representative for Internally Displaced Persons, Francis Mading Deng, visited the country to review the situation of internally displaced person. According to different NGOs who met with Deng, there are over 640 families that had been displaced by various conflicts. The 1998 killings in El Charco displaced an estimated 400 families according to the head of the Independent Organization of Mixtec and Tlapanec People. During the year, FRAYBA published a study that found that 2,453 families totaling 12,080 persons were internally displaced from 1994 to 2000. Sporadic violence attributed variously to religious, political, land or economic disputes caused persons to flee their homes for fear for their lives, returning only when they felt that the potential threat had abated.

The law provides for the protection of foreigners who might face political persecution if they were to return to their countries of origin. The law includes provisions for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of providing first asylum did not arise during the year. The Government accepts the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the office of the UNHCR. Since the start of the year, the UNHCR office in Mexico City no longer processes refugee documentation for cases in the country. Government authorities now process all refugee documentation.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. As a result of electoral reforms approved and implemented in recent years, the political process and especially the electoral process have become more transparent. While elections are open and generally fair, some abuses continued to occur. Prior to the 2000 presidential election, the PRI had dominated politics, controlled the Federal government, and won every presidential election since its founding in 1929. However, in 2000, voters elected President Vicente Fox, a member of the National Action Party and candidate of the Alliance for Change Coalition, with 43.3 percent of the vote. Observers, both international and domestic, judged the elections, which ended the PRI's 71-year hold on the presidency, to be generally free and fair.

The legislature amended the Constitution in 2000 to allow eligible citizens who are abroad to vote in presidential elections; however, the Senate failed to act on the necessary implementing legislation that would have made overseas voting possible in the 2000 election due to differences over the costs and requirements for voting. The national debate regarding overseas voting for the 2006 presidential elections continued during the year.

Presidents are elected every 6 years and cannot be reelected.

The IFE, operating with full autonomy, arranged and supervised the 2000 federal elections. It standardized the voter registration list and recruited and trained thousands of civil society volunteers to serve as independent electoral workers at the voting booths. The IFE also provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts. In October the IFE announced new security features in voting credentials, including digitized photography and personalized microtext.

In the Chamber of Deputies, the PRI holds 208 seats; the PAN 207; the PRD 54; the Green Ecologist Party (PVEM) 16; the Labor Party (PT) 8; Democracy Convergence (CD) 1; the Nationalist Society Party (PSN) 3; and the Social Alliance Party (PAS) 2. There is one independent in the Chamber. The PRI holds 60 seats in the

Senate; the PAN 46; the PRD 16; the PVEM 5; and the CD 1. Legislators can and do on occasion change their party affiliation.

On the state level, the PRI holds governorships in 17 states, the PAN 8, the PRD 2, PRD-PT, PRD-PVEM, and PRD-PAN coalitions 4. On the municipal level, multi-party pluralism is well established. The PRD governs the Federal District, and the PAN governs 13 of the 20 largest cities.

In February and March, all three major political parties held elections for top party posts. Only the party leadership voted in the PAN election. The PRI and PRD held popular elections to elect new party leaders. The PRI elections were open to anyone, regardless of political affiliation. The PRD's election was open only to registered PRD party members. Both elections were accompanied by accusations of fraud. The PRI candidate won the election by less than one percent of the vote in a contest marked by allegations of fraud on both sides. For example, in 1 town in Oaxaca with 1,200 registered voters, 1,100 persons voted, with 1,099 votes going to 1 candidate. The PRD vote was marked more by disorganization than voter fraud. On election day, many polling places were not installed and others had not received ballots or voting boxes. Elections in one state, Hidalgo, were voided due to irregularities detected by election observers in the state level organization.

There have been controversies over state and municipal elections. In July 2001, the PRI appealed the results of the July 1 Ciudad Juarez mayoral elections, called in favor of the PAN candidate, on the basis of alleged irregularities at polling places and the improper conduct by the city's PAN administration in favor of the PAN candidate. In August 2001, the State Electoral Institute ruled in favor of the PRI. The PAN appealed the state level decision to the TEPJF, the ultimate court of appeal on election matters. The annulment of that election was upheld and a new mayoral election scheduled for May 12. The same two candidates, backed by PRI (this time with a coalition of smaller parties) and PAN, faced off with the identical result: the PAN candidate won by less than 4 percent of the vote. PRI and its coalition again appealed that result. The State Electoral Tribunal again annulled the election, and PAN appealed that result to the federal level. On July 11, members of the PAN and the PRI fought each other with sticks, knives, and chairs. On July 24, the Federal Electoral Tribunal upheld the election result and invalidated the annulment of the election at the state level. On July 27, the new Mayor, Jesus Alfredo Delgado, was sworn into office to serve the remainder of his original 3-year term.

On February 17, the State of Quintana Roo held municipal elections. The PRI won every election except in the city of Cancun where the PVEM was victorious. However, on March 13, the state electoral tribunal annulled the municipal election in Cancun, based on the claim that it had found alleged irregularities in approximately 21 percent of the polling place in the city. On April 8, the Federal Electoral Tribunal ratified unanimously PVEM candidate Garcia Zalvidea's election as Cancun mayor. The state PRI party and PRI-controlled state government accepted the decision.

There are no legal barriers to participation in politics by women. There are 23 women in the 128-seat Senate and 87 women in the 500-seat lower house. There are three women in the Cabinet and one female justice on the Supreme Court. No women serve as governors, although there have been female governors in the past. Nine women serve in the Mexico City cabinet, and 13 of the city's 23 key officials are women.

Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties are attempting to increase the number of women who run for elected office through formal and informal means. Some utilized quotas requiring that a certain percentage of candidates on a party list are female. However, in practice, women more often were put forward as substitute candidates who have little chance of serving unless the titular candidate leaves office. The PRD's membership is 48 percent female; its leadership is 27 percent female, 26 percent of its representatives and 12 percent of its senators are female, and it has a female party president. The PAN has utilized more informal methods to increase female registration. An estimated 24 percent of its leadership is female, and close to 17 percent of representatives and 13 percent of its senators are female. PRI party rules mandate that 30 percent of its federal candidates be women. An estimated 24 percent of the party leadership, including its Secretary General, 16 percent of its representatives, and 18 percent of its senators are female.

There are no legal barriers to participation in politics by members of minorities or persons of indigenous descent; however, there were no statistics available regarding minority participation in the Government.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to local office according to "usages and customs," rather than federal and state electoral law. Only the states of Oaxaca and Quintana Roo have enacted implementing legislation to effect such local elections. Traditional customs vary

from village to village. In some villages, women do not have the right to vote or to hold office. In others they can vote but not hold office.

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

A wide variety of human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. According to the Secretariat of government's Directorate of Liaison with Social and Civil Organizations, there are 979 human rights NGOs in the country. Government officials have met with NGOs in an effort to become more cooperative and responsive to NGO views.

In 2000, President Fox eased entry requirements for those interested in observing human rights conditions. They must agree to observe the country's laws.

Reports of harassment, attacks, and detentions against human rights workers have diminished; however, they continued to occur. PRODH documented more than 12 instances of aggression against human rights defenders.

On January 14, unknown gunman fired on the home of the Chiapas CEDH president Pedro Lopez Hernandez, in Tuxtla Gutierrez. There were accusations between the ombudsman and the state governor that the state government was behind the shooting. In May police arrested Nicolas Acero Nandayapa and Venturiano Ruiz Macias for the shooting. On October 12, Lopez Hernandez presented a complaint before the PGR of harassment by state authorities. Press reports said Lopez Hernandez was preparing to take his case before the Inter-American Human Rights Commission. Investigation into the shooting continued at year's end.

On March 18, in Mexico City, human rights lawyer Barbara Zamora, a colleague of slain human rights lawyer Digna Ochoa and legal representative for the Ochoa family, received a threat via e-mail.

On April 11, Maria Guadalupe Morfin Otero, ex-president of the Jalisco state human rights commission received at her home in Guadalajara a telephonic threat of death if she continued to pursue a court injunction (amparo) against the state Congress. Morfin alleged that the Congress impeded her from a second term in office without foundation and without an objective evaluation of her work. In December PRODH announced that it would present the case before the Inter-American Human Rights Commission.

On July 16, Arturo Requesens, a member of the Christian Action for the Abolishment of Torture, received death threats for his investigations into the disappearance of Jesus Angel Gutierrez Oliveras.

There were several instances of harassment in Ciudad Juarez, Chihuahua during the year. At the close of 2001, women from NGOs complained to the CNDH that they received threats via fax and telephone because of their participation in the investigation of the murdered women in Ciudad Juarez. In January the spokesperson of the Juarez Coordinator Pro Women Victoria Caraveo Vallina, who had been receiving threatening calls, and her mother were assaulted in separate incidents near their home. On March 27, unknown assailants killed the 73-year-old step-mother of human rights activist Astrid Gonzalez, one of the founders of the group Women for Juarez and the director of a program called "Stop Crime" that offers rewards for the capture of killers of women on the northern border.

In its 2002 report, Amnesty International noted that human rights defenders and journalists continued to be harassed and were the victims of death threats.

In July Renato Sales, the Mexico City Attorney General's office Special Prosecutor investigating the 2001 death of Digna Ochoa y Placido, resigned from the case after information leaked to the press that the PGJDF was seriously considering the hypothesis that Ochoa's death was a suicide. PGJDF Attorney General Bernardo Batiz appointed a three-person panel to select a replacement for Sales. The new Special Prosecutor, Margarita Guerra, a criminal court magistrate in the PGJDF, took over the Ochoa investigation on August 1.

There were no developments in the investigation of death threats against Arturo Solis, president of the Center of Border Studies and the Promotion of Human Rights. He received these threats after he publicly accused federal immigration agents in Tamaulipas of involvement in illegal immigrant trafficking in 2000 (see Section 2.d.).

There were no developments in the investigations into robberies of the home and office of Angelica Ayala Ortiz, vice president of LIMEDDH. Investigations into both cases were ongoing at year's end.

The PRODH has criticized the Government's actions to protect human rights workers as inadequate. The PRODH advocates adoption of measures to promote awareness of the importance of human rights work and to investigate cases of threats, intimidation, and attacks against human rights workers. In November and

December 2001, SEGOB developed a plan in collaboration with NGOs to provide enhanced protective measures for human rights activists and to determine the circumstances and conditions under which this assistance may be provided.

The CNDH has improved its credibility steadily since its establishment by the Government in 1990. The Senate, instead of the President, now appoints the commission's president, although some NGOs feared that this would make the CNDH more susceptible to political pressure. In 1999 the Senate named legal scholar Jose Luis Soberanes to a 5-year term as CNDH president, replacing the sitting president prior to the expiration of her term. Although most NGOs have a favorable opinion of the CNDH, many are critical of its method of presenting information, especially the reporting of compliance with recommendations, which is mandated by statute. However, in a public opinion survey in May 2001, a majority of respondents indicated that they felt the CNDH was an institution that offered services of protection, defense, and consultation to the population.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides that men and women are equal before the law, and that education should avoid "privileges of race, religion, groups, sexes, or individual"; however, these provisions were not enforced effectively, although the Government continued to make progress in efforts to do so.

In June the 24th Gay-Lesbian Pride parade occurred in Mexico City with the participation of an estimated 35,000 persons and 70 organizations without incident.

In the most recent National Survey on Political Culture and Citizen Practices, the National Center for the Prevention and Control of AIDS (CENSIDA) announced that the rates of rejection of homosexuals by both those who considered themselves liberals and those who classified themselves as conservatives were almost the same: 37 and 39 percent respectively. The same survey found that 66 percent of respondents would not share a home with a homosexual.

Individuals suffering from HIV/AIDS are victims of prejudice.

In the same CENSIDA survey, 57 percent of the persons surveyed said they would not live with someone infected with HIV.

Women.—The most pervasive violations of women's rights involve domestic and sexual violence. Both are widespread and vastly underreported. A 1997 law criminalized intrafamily violence, established protective measures for victims, and provided public education on the domestic violence problem. The law provides for fines equal to 30 to 180 days' pay and the detention of violators for up to 36 hours. The Center for Attention to Intrafamily Violence reported in 2000 that it received between 50 to 60 complaints nationwide every day. In January the "Casa de la Mujer" in Merida, Yucatan reported receiving 160 cases daily of domestic violence. According to a 1999 survey by the National Institute of Statistics, Geography, and Computation, some form of domestic abuse occurs in one of every three homes. The victim seeks help in only one of every six homes suffering from domestic abuse. Women are reluctant to report abuse or file charges, and the police are reluctant to intervene in what society considers a private matter. Many police also are inexperienced in these areas and unfamiliar with appropriate investigative techniques, although some have received training on these problems.

According to the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), over 1 million women each year seek emergency medical treatment for injuries caused by domestic violence. Groups such as the NGO Center for Research and Care of Women are attempting to counter the widespread view of domestic violence as private, normal behavior and to deter future violence. Within the CNDH's First Inspector General's office, the General Coordinating Office devotes all of its time to issues relating to women, children, and the family.

In September Nuevo Laredo became the first municipality in Tamaulipas state to enforce a 1999 domestic violence law. The law not only provides protection to the victim from physical, psycho-emotional, and sexual aggression from the immediate family but also any extended family. The law provides, at no cost to the victim, refuge, medical attention, legal counsel, and the assistance of social workers.

A 1997 law expanded the definition of rape to include spousal rape, applying to both married or common-law couples. Under certain circumstances limited to the statutory rape of a minor between the ages of 12 and 18, the Criminal Code allows a judge to dismiss charges if the persons involved voluntarily marry. In practice this provision is invoked rarely.

In November 2001, the bodies of eight young women who had been raped and murdered were found in an empty lot adjacent to a busy intersection in Ciudad Juarez. State authorities arrested two bus drivers accused of the crimes within 3 days but the drivers allege their confessions were obtained under torture. Their attorney was subsequently shot and killed by the State Police following a high-speed

car chase during which the attorney called his father and reported that he was being pursued. The police originally alleged that he had died of injuries received when his car crashed but were forced to retract that information when it was revealed that he had been shot in the head. The officers involved in the case were questioned but never charged nor disciplined. They continue in their official capacity. The bus drivers remained jailed pending sentencing at year's end. On December 6, the Chihuahua State Supreme court upheld the decision of a lower court's sentence against Carlos Barrientos Vidales, Charly Cenicerros Garcia and Romel Omar Cenicerros Garcia, members of the gang "Rebeldes" who were detained in 1996, for their participation in the murders of at least 10 women in Ciudad Juarez on the orders of Abdel Latif Sharif. There were two disappearances of young women in Ciudad Juarez in December. No arrests have been made in either case.

The State Attorney General's office claimed that following DNA identification, it had identified positively six of the eight murdered women, whose bodies the families had buried; however, subsequent information revealed that the identifications had been mistaken. When the families demanded additional DNA tests, the State Police claimed the DNA evidence had been lost.

On February 11–12, Marta Altolaguirre Larrondo, the IACHR Special Rapporteur on the Rights of Women visited Ciudad Juarez and expressed her dismay at the lethargy displayed by the state and federal authorities in investigating the death of 268 women since 1993.

Trafficking in women for the purpose of sexual exploitation is a problem (*see* Section 6.f.).

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Sexual harassment in the workplace is widespread. In May 2001, the CDHDF estimated that at least 80 percent of the women who work in Mexico City have experienced sexual harassment.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support unless the child was a product of rape or cohabitation, the child resides with the father, or there is written proof of paternity.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." However, women in the work force generally are paid less than their male counterparts and are concentrated in lower-paying occupations. In February, the sub-secretariat of Educational Services in the Secretariat of Education said that the top 10 percent of the highest paid men earn 50 percent more than the top 10 percent of highest paid women, and that the bottom 10 percent of the lowest paid men earn 25 to 27 percent more than the bottom 10 percent of the lowest paid women.

Labor law provides extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breast feeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with full pay, are prohibited from dismissing her, and must remove her from heavy or dangerous work or exposure to toxic substances. To avoid these expensive requirements, some employers, including some in the maquila industry, reportedly violate these provisions by requiring pregnancy tests in preemployment physicals, by regular examinations and inquiries into women's reproductive status (including additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. In September the Veracruz state office of the Secretariat of Labor and Social Security reported that it had turned over approximately 160 cases of women that were dismissed from their workplace because they were pregnant. The office said that the figure amounted to only 10 percent of the total complaints received.

The Secretariat of Labor makes safety and hygiene inspections in private factories and public institutions to protect the labor rights of workers (*see* Section 6.e.).

There were reports that public health institutions performed forced sterilizations in marginalized indigenous areas (*see* Sections 1.c. and 1.f.).

On March 8, the National Women's Institute (NWI) began operating. This new agency is expected to coordinate tasks previously carried out by the National Women's Program (PRONAM), such as making recommendations to the Government regarding women's issues, and working with government agencies, international organizations, and NGOs to support women's causes. The NWI and the National Statistics Institute tracked gender-specific statistics to ascertain more accurately the sta-

tus of women. The International Labor Organization (ILO), the Secretariats of Labor and Foreign Relations, and the National Women's Institute have all promoted the equal status of women in the workplace. In October 2001, NWI launched its Pro-Equality program, designed to institutionalize a gender perspective within the Federal government. In addition, there are several local groups that actively support women's rights.

The Friends House (Casa Amiga) in Ciudad Juarez provides shelter for women and children in extreme need, advocates for the legal rights of women and children in the state of Chihuahua, and works closely with the sexual trauma assault resource crisis center in El Paso, Texas. It also provides training to police and administers outreach programs. The Fundemos Foundation in Guadalajara promotes legal reforms to protect victims of domestic violence and participates in the state coordinating body for women's organizations.

Children.—The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remain. The CNDH received complaints about the services provided by the Secretary of Health, the Secretary of Education (SEP), and the Institute of Social Security. Children under the age of 15 make up 34 percent of the population, and the median age of the population is 21. Nine years of education are compulsory, and parents are legally liable for their children's attendance; however, SEP and the Sierra Neighborhood Foundation have maintained that only approximately 30 percent of youths between 15 and 20 years of age attend school. According to a 1998 academic study, in most areas of the country, girls and boys attend school at similar rates. In marginalized rural areas, national statistical agencies report that 60 percent of girls attend primary school compared with 70 percent of boys. Scholarships offered to families of the abject poor under the Government's "Progresa" antipoverty program kept an additional 100,000 children in school in 1999, and according to Progresa, that number increased by 18 percent in 2000. Progresa incorporated 763,000 new families into the program during the year.

The National Public Health Institute's 2000 National Nutrition Survey reported that 3 million children under the age of 5 suffered some form of malnutrition, and a 1999 national nutrition survey stated that the same number suffer anemia, while another 2 million children chronically were malnourished. The mortality rate for children under 5 years of age was 33 per 1,000 live births, according to UNICEF figures.

The National Institute for the Integral Development of the Family (DIF) received an average of approximately 35,000 complaints per year of physical and mental abuse against children, the majority in the Federal District, Mexico State, and Nuevo Leon. In April 2001, the Federal Chamber of Deputies Committee for Vulnerable Groups estimated that some 300 children die every year due to domestic violence.

Child prostitution and pornography are felonies under the law; however, sexual exploitation is a problem. Under a 2000 law, anyone convicted of corrupting a minor under 16 years of age by introducing the minor to pornography, prostitution, or any sexual exploitation can be sentenced to 5 to 10 years' imprisonment. If parents or guardians are convicted of a crime, they automatically lose custody of their children. If convicted, accomplices to sexual abuse or exploitation may be imprisoned for 6 to 10 years. When physical or psychological violence is used to abuse sexually or profit from children's exploitation, the minimum and maximum penalties for these crimes are increased by up to one-half. A 2000 DIF/UNICEF report estimated that 16,000 children below the age of 17 were victims of some form of sexual exploitation. The localities of Acapulco, Cancun, Ciudad Juarez, Guadalajara, Tapachula, and Tijuana accounted for over one-fourth of that figure (4,600). In 2000, the Mexico City attorney general's office and the Mexico City Human Rights Commission reported that nearly 12,000 children in Mexico City were exploited sexually.

Trafficking in children for the purpose of sexual exploitation was a problem (see Section 6.f.). In 2000 the PGR established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children. Televisa news reported that an estimated 18,000 children a year were kidnaped in Mexico.

Child labor is a problem, particularly among migrant farming families (see Section 6.d.). The Government has attempted to make schooling easier for the children of such families by making their educational credentials transferable.

In 2000 the Congress passed a constitutional amendment to protect the rights of children and teenagers and ensure respect for their dignity. The amendment also increased penalties for the sexual abuse or exploitation of children. In 2000 the Congress also passed the Protection of the Rights of Children and Adolescents Law. This law provides for the right to life, nondiscrimination, healthy living conditions,

protection against threats to liberty and physical abuse, a healthy family life, health services, equal treatment for persons with disabilities, education, pursuit of happiness, and freedom of thought and expression. Penalties for violation of this law include fines of 500 to 1,000 times Mexico City's minimum wage and possible imprisonment.

Press reports cited a 1998–99 DIF study that estimated that some 130,000 minors in 101 cities were living in the streets. The NGO Mexican Association of Childhood and Youth reported that there was a large population, estimated at 42,000, of vulnerable street children in Mexico City. Street children often become involved with alcohol, drugs, prostitution, petty thievery, and increasingly, violent crimes. In the past, there were charges that corrupt police officials sometimes exploited these children by pressuring them to commit petty crimes and extorting money from them. In March 2001, the DIF began a program aimed at street children, focusing initially on 3,000 children in Mexico City, Puebla, Guadalajara, Monterrey, Tijuana, and Ciudad Juarez. On April 17, 17-year-old Jose Luis Juarez Tinoco, a street youth, died after having been raped and strangled in Mexico City.

The Government and various NGOs have programs to protect the rights of children and to instill inter-generational respect for human rights through educational programs. During the year, the PGR, the National Women's Institute, UNICEF, and DIF sponsored a program called "Open your Eyes, But Don't Close your Mouth" to encourage citizens to denounce crimes, especially child prostitution and child pornography.

On October 23, the CNDH submitted its recommendation no. 39/2002 directed toward the Secretary of Education, concerning sexual abuses of minors and the possible existence of a child pornography ring in schools within the public education system. The recommendation called for administrative sanction against the school director, a full investigation into the case and psychiatric help for the children and their parents.

On December 10, President Fox unveiled the program "An Appropriate Mexico for Infancy and Adolescence 2002–2010", elaborated with the participation of 25 institutions and in collaboration with UNICEF. The program is designed to cater to the more vulnerable children belonging to indigenous groups, migrants, children with disabilities, and street children. The National Council for Infancy and Adolescence is charged with the implementation of the program. The program is an action plan to diminish child poverty, malnutrition, and abandonment, and childhood sicknesses such as obesity, AIDS, and infant mortality.

Persons with Disabilities.—Estimates of the number of persons with disabilities range from 2 to 10 million. In the 2000 census, 1.8 million persons identified themselves as having a disability, although 2.2 million persons chose not to specify whether or not they had a disability. According to the President's Office for the Promotion and Social Integration of Persons with Disabilities, there are estimated to be 250,000 new cases a year of persons with disabilities owing to accidents, births, or diseases. According to the National Institute for Statistics, Geography and Information (INEGI) there are 988 registered institutions of or for persons with disabilities. In Mexico City, 166 NGOs address problems affecting persons with physical disabilities.

In 2001 the President unveiled the National Public Access Program, designed to provide equal access and rights to persons with disabilities. The program will evaluate and improve accessibility for more than 4,000 federal buildings, including offices, hospitals, airports, and bus stations. In December President Fox reiterated his administration's promise to make government buildings accessible to people with different disabilities. The evaluation program was ongoing at year's end.

In October, Federal District head of government Andres Manuel Lopez Obrador announced that in 2003 the number of persons with disabilities receiving aid in the Federal District's will increase from 40,000 to 50,000.

On December 3, President Fox accompanied by the Secretary of Labor and the national DIF director, unveiled the "Labor Integration Program" to promote the hiring of persons with disabilities by the private sector. The program was supported by the Confederation of Industrial Chambers of Mexico (CONCAMIN).

The DIF has 62 Rehabilitation Centers in 31 states and the Federal District and more than 600 Basic Rehabilitation Units throughout the country.

A total of 27 of the 31 states have laws protecting persons with disabilities. Local law requires access for persons with disabilities to public facilities in Mexico City, but not elsewhere in the country. In practice most public buildings and facilities in Mexico City do not comply with the law. The Federal District also mandated access for children with physical disabilities to all public and private schools. The Mexico City Secretary of Education, Health, and Social Development stated previously that 78 percent of these children received some schooling. In 2000, the President's Office

announced that 90,000 children with disabilities were integrated into a regular education system between 1994 and 2000.

In August the Federal District Electoral Institute (IEDF) announced that it would facilitate voting for persons with disabilities. Voting booths would be made wider and shorter for people in wheelchairs; however, ramps leading to the voting booths for wheelchairs would not be installed. Ballot boxes with Braille writing, and a special ballot holder and marker for those with limited fine motor skills will be available.

Indigenous Persons.—The indigenous population has been long subject to discrimination, repression, and marginalization. In December 2000, the Fox administration created the Office of Development of Indigenous People, within the presidency to work with the National Indigenous Institute (INI) to attend to indigenous affairs. In its “National Program for the Development of Indigenous Peoples 2001–2006”, the INI estimated the registered indigenous population at 8.4 million, while the estimated overall population was 12.7 million. Estimates from other organizations vary from 8 to 10 million. The report lists: 6 million native indigenous dialect speakers over 5 years of age, 1.3 million children under 5 who live in households of native indigenous dialect speakers, and 1.1 million individuals who identified themselves as indigenous, but do not speak an indigenous dialect. Indigenous people are located principally in the central and southern regions and represent 37 percent of the population in the states of Oaxaca and Yucatan. However, these groups have remained largely outside the political and economic mainstream, as a result of longstanding patterns of economic and social development. In many cases, their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources is negligible.

In 2000 President Fox submitted to Congress the Indigenous Rights and Culture bill (COCOPA), a package of constitutional reforms that codified the San Andres Accords. In April 2001, the Senate and Lower House passed an amended version of the Indigenous Rights and Culture bill, and the bill became law in August 2001. The bill addressed government recognition of indigenous people; their right to internal self-government; the legal standing of traditional forms of justice; indigenous input into national, state, and municipal development plans; and control over natural resources.

The EZLN opposed the revised bill’s subjection of indigenous rights and autonomy to existing federal, state, and municipal laws and jurisdictions, provisions not contained in the original COCOPA proposal.

Various state governments and multiple indigenous groups launched more than 300 challenges to the reform’s constitutionality. Opponents claimed that the process by which the reform was amended contravened international norms and conventions, specifically ILO Convention 169 on Indigenous and Tribal Peoples, which requires public participation in the development of legislation that affects the lives of indigenous people.

On September 6, the Supreme Court ruled that it did not have the authority to analyze legislated changes to the Constitution and that therefore, the August 2001 changes to the Indigenous Rights Law remain valid and beyond the Court’s jurisdiction to approve, modify, or strike. The ruling closed the judicial door to changing the law. A multitude of indigenous and human rights NGOs, as well as state and local governments, declared their dissatisfaction with the decision. Governments and NGOs fear that the decision may lead to renewed violence, as Indigenous groups perceive that they have used their last legal option, and their only alternative is more radical protest.

In April CNDH President Jose Luis Soberanes stated that the indigenous people remain third-class citizens. Indigenous people do not receive social justice, he added, and there is no indication that the State has the intention of paying its historic debt.

Sporadic outbursts of politically motivated and land dispute violence continued to occur in the southern states of Chiapas, Guerrero, and Oaxaca. Land disputes going back decades are also a cause of tension in the indigenous regions, especially in Oaxaca, Guerrero, and Chiapas (*see* Section 1.a.).

Judges often failed to sentence indigenous detainees within legally mandated periods (*see* Sections 1.d. and 1.e.). However, federal prosecutors drop drug charges against indigenous defendants whom drug traffickers forced to grow illegal crops, and the INI supports programs to provide translators and bail assistance to indigenous defendants (*see* Section 1.d.).

Indigenous people do not live on autonomous reservations, although some indigenous communities exercise considerable local control over economic, political, and social issues. In the State of Oaxaca, for example, 70 percent of the 570 municipalities are governed according to the indigenous regime of usages and customs, which may

not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation (*see* Section 3). These communities apply traditional practices to resolve disputes and to choose local officials. In 1998 Quintana Roo's State Legislature passed a similar usages and customs law. While the laws allow communities in these states to elect officials according to their traditions, these usages and customs tend to exclude women from the political process. Usages and customs also often infringe on other rights of women.

There were reports that public health institutions performed forced sterilizations in marginalized indigenous areas (*see* Section 1.f.).

The law provides some protection for indigenous people, and the Government provides support for indigenous communities through social and economic assistance programs, legal provisions, and social welfare programs. Budget constraints prevented these measures from meeting the needs of all indigenous people.

The General Education Act provides that educational instruction shall be conducted in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons speak only their native languages.

The President created the sub-cabinet Office for the Development of Indigenous Peoples led by Xochitl Galvez to complement the efforts of the INI, the CNDH, and various NGOs, which operate programs to educate indigenous groups about their political and human rights. The Government generally professed respect for indigenous people's desire to retain elements of their traditional culture in practice. The CNDH's Office of the Fourth Inspector General reviews and investigates violations of indigenous rights. More than 130 NGOs are dedicated to the promotion and protection of indigenous rights.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade unions of their choice. Approximately 25 percent of the total work force is unionized, mostly in the formal sector, where approximately one-half the labor force is employed.

No prior approval is needed to form unions; however, they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) to function legally. Registration requirements are not onerous. In 2001 46 new labor unions registered with the STPS or the JLCA, and approximately 50 percent of these were independent of the main labor centrals. However, the STPS or the JLCA occasionally have withheld or delayed registration of unions. For example, in October 2001 the STPS declared itself incompetent to register a union to represent professional soccer players, arguing that guaranteeing union representation to sports professionals is not a federal function. In April a labor judge in Mexico City ruled against the STPS, and the STPS appealed the decision to the Supreme Court. The court ruled against the union, upholding the argument of the Secretariat that the Federal Conciliation and Arbitration Board was not competent to register the union. However, the Court did say that the football players' union could register with any state or local conciliation and arbitration board, and that that registration would be considered valid in the whole country.

The STPS and the JLCA have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. To remedy this problem, STPS officials required evidence that unions were genuine and representative. Genuine unions can demonstrate that they actually have members and represent the workers at the workplace. Some labor organizations have complained that they have found it difficult to obtain registration, especially from some local conciliation and arbitration boards.

The Federal Labor Board (JFCA) and the JLCA are tripartite and include the Government, union, and employer representatives. Although trade union presence on the boards usually is a positive feature, it can sometimes lead to unfair partiality in representation disputes. Trade union registration was the subject of follow-up activities pursuant to a 1995 agreement reached in ministerial consultations under the North American Agreement on Labor Cooperation.

Unions form federations and confederations freely without government approval. Most unions belong to such bodies, which also must register to have legal status. The largest trade union central is the Confederation of Mexican Workers (CTM), traditionally a part of the labor sector of the PRI, but affiliation is by individual unions.

The Mexican Workers' Regional Confederation, the Revolutionary Worker and Peasant Confederation, and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) also are allied with the PRI. However, several unions did not ally themselves with the PRI, including SNTE, the

large teacher's union, which severed its PRI ties a decade ago, and freed its minority factions—including the CNTE, a breakaway teachers' union—to cooperate openly with other parties, particularly the PRD. In April 2001, the Federal Employee Union Federation (FSTSE) ended its long-standing relationship with the PRI. There also are a few small labor federations and independent unions outside the CT not allied with the PRI. One is the small, left-of-center Authentic Labor Front (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In 1997 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed the National Union of Workers—a labor central in competition with the officially recognized CT.

PRI-affiliated union officers traditionally helped select, ran as, and campaigned for PRI candidates in federal and state elections and supported past PRI government policies at crucial moments. The CT, especially the CTM, was well represented in the PRI senatorial and congressional delegations, although its numbers diminished significantly after the 1997 and the 2000 elections.

The ILO Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE request, violate ILO Convention 87 on freedom of association. These restrictions allow only one union per jurisdiction, forbid union members from quitting the union, and prohibit reelection of union officials. In 1998 the COE and the ILO Committee on Application of Standards reiterated their criticism and asked the Government to amend the law. The Government responded to the criticism with subsequent labor reforms. A 1999 Supreme Court decision permits the formation and recognition of more than one union per federal entity. In April 2001, the Supreme Court ruled that Articles 395 and 413 of the LFT were unconstitutional because they violated the constitutional provision for freedom of association. This decision permitted recognition of multiple unions at a company, and workers may obtain and retain employment whether or not they are associated with a union.

In April 2001, the Congress approved a package of constitutional reforms on indigenous rights and culture (*see* Section 5). Critics argue the approved reforms fail to meet the Government's obligations to ILO Convention 169 on Indigenous and Tribal Peoples. In the report prepared for the June Conference, the COE noted numerous complaints of noncompliance with Convention 169 and stated that although the constitutional reforms published in the Official Bulletin "cover a large part of the subjects covered by the Convention," the COE was aware that the reforms were controversial and was examining them in detail.

The country's record for internal union democracy and transparency was spotty. Some unions were democratic, but corruption and strong-arm tactics were common in others.

In a case involving freedom of association linked to the right to organize unions, in 1997 a total of 10 unions and 24 additional organizations, including NGOs and human rights groups, jointly filed a submission with the U.S. National Administrative Office (NAO) alleging that a CTM-affiliated union used strong-arm tactics to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in Mexico state. This submission also alleged violations of health and safety regulations. The Canadian NAO also received a submission on this case in 1998. The U.S. NAO issued a report in 1998 that recommended ministerial consultations. A May 2000 agreement between the U.S. and Mexican Labor Secretaries and adhered to by the Canadian Labor Minister provided that the Mexican Labor Secretariat hold a trilateral public seminar regarding labor boards and their members and officials; their structure and responsibilities; the rules and procedures to assure impartiality, as well as their role in the process for gaining the right to a collective bargaining contract. Consistent with the Joint Statement on Ministerial Consultations released on June 12, the seminar is to take place in Monterrey, Nuevo Leon, Mexico; however, it had not been scheduled by year's end.

The Constitution and the LFT protect labor organizations from government interference in their internal affairs, including strike decisions. However, this also can protect undemocratic or corrupt union leaders. The law still permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and to force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

Employer organizations slowed efforts to push for labor law reform early in 1999 and entered into ongoing discussions with the Government and labor unions about reforming the LFT's rules of procedure. Government, employers, and unions had negotiated reforms through tripartite national agreements and collective bargaining at the enterprise level. Reforms were effected also through cooperation in programs to increase, and compensate for, productivity. Government, national labor unions, and

employer organizations met periodically throughout the year to discuss ways and means of cooperation to boost productivity, wages, and competitiveness. The STPS sponsored a reformatted restructured committee that was working on draft labor legislation to present to Congress at year's end. On December 12, a group of 17 members from the PRI, the PAN, and the Green Ecologist Party introduced the labor reform bill to the Chamber of Deputies plenum, that in turn referred it to the appropriate committees. Congress did not act on the legislation prior to adjourning for the year on December 15.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals.

b. The Right to Organize and Bargain Collectively.—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union recognition election. LFT pro-union provisions led some employers to seek out or create independent “white” or company unions as an alternative to mainstream national or local unions. Representation elections are traditionally open, not secret. Traditionally, management and union officials are present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts, which in the past have resulted in the intimidation of pronion workers and in reprisals against them, are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree. Moves to change that arrangement began early in the year. The draft bill contains provision for secret ballot elections as long as there are at least two contenders. The bill, however, is not yet law.

On March 5, workers, dissatisfied with benefit and salary negotiations at Alcoa Plant Number 2 in Piedras Negras, Coahuila, voted to replace the union representation of the CTM with an independent union, *Comite Fronterizo de Obreros* (CFO). In spite of enduring harassment and violence allegedly from the CTM, workers handed victory to the CFO by 300 votes, a 20 percent margin. This election was noteworthy because it occurred by secret ballot. On October 18, workers at Alcoa Plant #1 elected new union representatives by secret ballot. The slate entitled “For Unity” received 400 more votes than were cast for the slate sponsored by CTM leader Leocadio Hernandez. The union committee of Plant #2 assisted the independent union in achieving its victory at Plant #1. At year's end, local labor authorities had not granted registration to either new union.

In July the National Administrative Office (NAO) in Washington D.C. charged with oversight of the North American Agreement on Labor Cooperation declined to accept a submission from the AFL-CIO, protesting that a lack of secret ballots during a March 2001 election at a foreign-owned company in Rio Bravo, Tamaulipas. The NAO argued that Mexican labor law recognizes the rights of freedom of association and to bargain collectively, but has no provision governing the use of secret ballots in trade union representation elections.

The 2002 Human Rights Watch World Report stated that collective bargaining agreements negotiated between management and probusiness and nonindependent unions frequently hindered legitimate organizing activity. The report stated that in other cases employers' hiring practices, such as the use of subcontractors and “permanent temporary” workers, impeded workers from organizing.

Wage restraints no longer exist, except for those caused by recession or an employer's difficult situation. Wages in most union contracts appeared to keep pace with or ahead of inflation, but most workers had not yet regained buying power lost over the past decade.

The Constitution and the LFT provide for the right to strike. The law requires 6 to 10 days' advance strike notice, followed by brief government mediation. If federal or state authorities rule a strike “nonexistent” or “illicit,” employees must remain at work, return to work within 24 hours, or face dismissal. If they rule a strike legal, the company or unit must shut down completely, management officials may not enter the premises until the strike is over, and the company may not hire replacements for striking workers. Provisions for maintaining essential services are not onerous. The law also makes filing a strike notice an effective, commonly used threat that protects a failing company's assets from creditors and courts until an agreement is reached on severance pay. Although few strikes actually occur, informal stoppages are fairly common, but uncounted in statistics, and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes are rare. Informal ones are more frequent. There were 43 strikes from January through November. According to the Secretariat of Labor and Social Welfare, in the two years that the Fox administration has been in office there have been 82 strikes at the federal level.

The public sector is almost completely organized. Industrial areas are organized heavily. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from antiunion discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector varied by area and sophistication of the manufacturing process. The National Council of the In-Bond Export Manufacturing Industry claims that its members employ approximately 1.1 million persons. According to INEGI, there are 3,204 active maquiladora plants in the country. Wages have been slightly higher and job creation has been greater in this sector than in more traditional manufacturing. Compensation packages in the maquiladora sector still were lower than in the traditional manufacturing sector. There was no evidence that the Government opposed unionization of the plants, although the maquiladora sector tends to be under state jurisdiction. Protection contracts, to which the workforce is not privy, are used in the maquila sector and elsewhere to discourage the development of authentic unions. These contracts are collective bargaining agreements negotiated and signed by management and a representative of a so-called labor organization, sometimes even prior to the hiring of a single worker.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in persons, including children, for sexual exploitation and forced labor is a problem (see Section 6.f.). There also were cases of abuses of refugees and undocumented immigrants (see Section 2.d.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits children under 14 years of age from working and sets the minimum legal work age at 14 years; however, child labor is a problem. Those between the ages of 14 and 16 may work only limited hours, with no night or hazardous work, which generally makes hiring them uneconomical. Enforcement was reasonably good at large and medium-sized companies, especially in maquiladoras and industries under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, and the Government's efforts to enforce the law stalled.

A 2000 report published by UNICEF and the National Action Commission in Favor of Children estimated that approximately 3.5 million children between the ages of 6 and 18 work regularly. Approximately 1.5 million children work in agriculture, particularly in the northern states. In 1999 UNICEF and the DIF, estimated that 150,000 children work in the 100 largest cities.

Reliable current statistics on child labor in the country do not exist. In 1996 the ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Most child labor is in the informal sector (including myriad under-age street vendors), family-owned workshops, or in agriculture and rural areas. Mexico City's central market employs approximately 11,000 minors between the ages of 7 and 18, who work as cart-pushers, kitchen help, and vendors. In 1999 UNICEF and DIF estimated that 135,000 children worked on the city streets. The children do not receive a fixed wage, and most work long shifts, starting in the early morning hours. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were unable to convince indigenous farm workers to leave their families at home, and many settled near work sites in the north. The union has had some limited success in negotiating with employers to finance education in Spanish and indigenous languages near work sites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields. Many urban child workers are migrants from rural areas, are illiterate, and have parents who are unemployed.

The Government's antipoverty program works to keep poor children in school as an alternative to work (see Section 5). The Government of the Federal District implemented a law adopted in 1999 that increased limitations on working hours and conditions for children employed as supermarket baggers and automotive attendants.

The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in children is a problem (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective on January 1, but any of the three parties can ask that the wage commission

reconvene during the year to consider a changed situation. In December 2001, the wage commission adopted an average 5.8 percent increase, effective on January 1, based in part on the Government's projection of a 4.5 percent annual inflation rate.

In Acapulco, Mexico City and nearby industrial areas, southeast Veracruz state's refining and petrochemical zone, and most border areas, the minimum daily wage was set at \$4.43 (42.15 pesos). In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage was \$4.22 (40.10 pesos). In other areas, it was \$4.03 (38.30 pesos). There are higher minimums for some occupations, such as the building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (approximately 16 percent) earn only the minimum wage; most workers earn multiples of the minimum wage, and industrial workers average three to four times the minimum wage, earning more at larger, more advanced, and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits include free social security medical treatment, pensions, individual worker housing and retirement accounts, Christmas bonuses, paid vacations, and profit sharing. Employer costs for these benefits add from approximately 27 percent of base salaries at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets six 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is one reason why unions vigorously defend the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

There are 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) and 4 more state offices of the STPS to make it more convenient for workers to file complaints and bring other actions before the labor court system.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and are responsible for workplace enforcement in plants and offices. These committees meet at least monthly to consider workplace needs and file copies of their minutes with federal labor inspectors. Federal and state authorities exchange information.

STPS and IMSS officials continued to report that compliance is reasonably good at most large companies. However, because smaller firms are far more numerous and so much more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. There were not enough federal inspectors to enforce effectively health and safety standards at smaller firms. There are special problems in construction, where unskilled, untrained, poorly educated, transient labor is common, especially at many small sites and companies. Many unions, particularly in construction, are not organized effectively to provide training, to encourage members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

To protect the rights of workers, the Secretariat of Labor made 9,593 safety and hygiene inspections in private factories and public institutions through August and estimated that it would complete 13,790 by the end of the year. However, while the Government increased the number of federal inspectors in 1997 and concluded agreements with more states to expand and better coordinate labor inspections, the 3,204 maquila plants far exceed the 253 federal inspectors.

In July and October, a bilateral working group of government experts on occupational safety and health issues held its first two meetings. This group will discuss and review issues raised in the public communications, formulate technical recommendations for consideration by governments, develop and evaluate technical cooperation projects occupational safety and health for improving occupational safety and health in the workplace, and identify other occupational safety and health issues appropriate for bilateral cooperation.

Many agricultural workers are internal migrants, who often travel with their families, including young children. They often are paid by volume of the work they produce, rather than by the day. Working conditions vary by area of the country and from one locality to another. In the past, allegations were made that workers,

including young children accompanying them, have been exposed to pesticides and other chemicals.

Individual employees or unions also may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

f. Trafficking in Persons.—The law prohibits trafficking in persons. Trafficking is a serious problem, and there were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (*see* Section 2.d.).

Mexico is a source country for trafficked persons to the United States, and to a lesser extent Canada, and a transit country for persons from various countries, especially Central America and to a much smaller extent Brazil and Eastern Europe. It is a destination country for children trafficked from Central America, especially from Honduras to Tapachula, Chiapas. Salvadorans, Hondurans, and Guatemalans, especially children, are trafficked into the country for prostitution, particularly on the southern border. Internal trafficking, including of children for sexual exploitation, also is a problem.

In 2001 DIF and UNICEF reported that an estimated 16,000 children were victims of sexual exploitation, including prostitution. Most were Mexican, although there were significant numbers from Central America—principally Guatemala, Honduras, and El Salvador. In many cases, those who brought them in the country promised them employment in legitimate occupations. Thereafter they were sold to the owners of bars and other establishments and then forced into prostitution to “pay off their debts.” This debt peonage often never ends because the children accrue more debt for their meals and housing. The owners sold or traded the children among themselves. Other children were transported to Mexico City for “training” and then were sent to centers of tourism. Some children are trafficked to the U.S. and Canada. In an ongoing study, DIF and UNICEF reported that the largest concentration of exploited children were found in Acapulco, Guerrero; Tijuana, Baja California; Ciudad Juarez, Chihuahua; Cancun, Quintana Roo; Guadalajara, Jalisco; and Tapachula, Chiapas.

There are no specific laws that prohibit the trafficking of persons, although immigration laws, the federal organized crime law, and federal and state penal codes contain provisions that may be used to prosecute traffickers of undocumented migrants, women, and children. Laws pertaining to trafficking in persons are Article 138 of the Immigration Law, and the Federal Organized Crime Law of the Federal Penal Code. There also are laws prohibiting the sexual abuse or exploitation of children and forced labor by children (*see* Sections 5 and 6.c.). The PRG and the INM are the agencies responsible for enforcing antitrafficking laws; however, there is no special program to combat trafficking. In 2000 the PRG established the Special Prosecutor’s Office for Attention to Crimes of Trafficking in Children (*see* Section 5). The Government prosecutes cases against traffickers, but no statistics were available.

The Government has a Plan of Action to Prevent, Attend, and Eradicate the Commercial Sexual Exploitation of Minors. The program is administered through the DIF and is supported by numerous executive and legislative branch entities. The Chihuahua state Attorney General’s Office runs a series of self-awareness programs to educate women about the many dangers confronting them in Ciudad Juarez. There also have been campaigns to prevent illegal migration and migrant smuggling.

The Government has strengthened significantly its cooperation with other countries. In 2000 the Honduran government stated that it was working to repatriate from Mexico approximately 400 Honduran girls, between the ages of 10 and 16 years, who after unsuccessfully having tried to enter the U.S. illegally were forced into prostitution in Mexico.

The Government supports general prevention campaigns for children and women, and administers assistance programs for children repatriated to Mexico. The legal framework exists to protect the victims of trafficking and provide social services to these victims. However, in practice persons illegally in the country usually are deported.

Numerous NGOs work on related issues such as migrant trafficking, child prostitution, sexual exploitation, and women’s rights (*see* Sections 2.d. and 5).

NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In November 2001, voters elected Enrique

Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election. The Supreme Electoral Council (CSE) is an independent fourth branch of government; however it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political and financial influence.

The President is the supreme chief of the national defense and security forces. Former President Aleman established the first civilian defense ministry upon his inauguration in 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The National Police continued to reduce the role of voluntary police (private citizens contracted by the National Police to help fill staffing gaps) in law enforcement. Use of voluntary police was discontinued in Managua; however, it continued in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; coffee, seafood, sugar, beef, light manufacturing, and tourism are key sectors. The country's population is approximately 5.3 million. A worldwide drop in coffee prices, the lack of an adequate legal framework to give confidence to domestic and foreign investors, a fragile banking system, large external debt, inflation, and unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. The economy grew by 3 percent in real terms in 2001; however, the growth rate was expected to decline to approximately 1 percent during the year. The annual rate of consumer price inflation was expected to be 4 percent during the year, marking the fourth consecutive year of single-digit increases. While the official projection of unemployment was 11 percent, unofficial estimates of combined unemployment and underemployment remained as high as 40 to 50 percent. The economy remained heavily dependent on foreign aid and remittances from abroad.

The Government generally respected the human rights of its citizens; however, serious problems remain in some areas. At year's end, there were ongoing investigations of those members of the security forces who were accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Prison and police holding cell conditions remained harsh, and overcrowding increased. Security forces arbitrarily arrested and detained citizens; however, the number of such reports decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials increased significantly. The 2001 Criminal Procedures Code took effect at year's end. The judiciary is subject at times to political influence and corruption. The Supreme Court ended its 5-year structural reform program of the judicial system with mixed success. The weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. The Human Rights Ombudsman made publicized recommendations during the year that openly challenged the actions of the security forces. Violence against women, including domestic abuse and rape, remained a concern. Discrimination against women was endemic. Violence against children and child prostitution continued. Discrimination against indigenous people also occurred. Child labor continued to exist. Concern over violation of labor rights in free trade zones continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation. Nicaragua was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings by government officials; however, the police received 20 allegations of unlawful killings by police; each of these was referred by the Inspector General of the police to the courts. All of the cases were pending before the courts at year's end.

The Inspector General's Office of the National Police received 20 reports of police killing of alleged criminals and 103 reports of instances in which police seriously

wounded criminal suspects while attempting to arrest them. The Inspector General remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and many of the cases never reach a final resolution in the court system (*see* Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's Office normally applies a mild punishment, such as suspension or confinement to precinct. Of the 139 cases the Inspector General remanded to the courts during the year, 1 case had been completely adjudicated by the courts by year's end. In January police Captain Arnulfo Rocha Mora shot and killed 31-year-old Santos Jose Polanco in Teustepe. A judge in Boaco indicted Captain Rocha for excessive force. Rocha claimed that he shot Polanco in self-defense and he was appealing the indictment at year's end. The police relocated Captain Rocha and allowed him to continue his duties while the appeal was underway. On August 11, police officer Carlos Martinez Castillo shot and killed 37-year-old Jose Sabino Martinez Mendoza, a suspected trafficker in aliens or narcotics, in Villa Venezuela, a suburb of Managua, after he failed to stop at a police checkpoint. When Mendoza fled on foot after abandoning his truck, the police fired warning shots. When Mendoza did not heed the warning, Castillo shot him in the head. Police accused five men traveling with Mendoza of being illegal immigrants. Although the courts acquitted four of the men, the authorities deported all five. In August a court acquitted officer Castillo of first degree murder and manslaughter.

By February, a joint police-military operation effectively had neutralized remnants of the pro-Sandinista "Andres Castro United Front" (FUAC) when it killed nearly 60 alleged FUAC members who had engaged in murder, kidnaping for ransom, and armed robbery in the north and north-central regions of the country since their disarmament in 1999. The Nicaraguan Center for Human Rights (CENIDH), a leading human rights group, alleged that the army committed at least six human rights violations during the operation. Press reports indicated that the security forces beheaded some of the FUAC fighters. The army insisted that it had used necessary force to ensure domestic security during a legitimate operation. The army claimed that it had looked into these charges; however, it did not launch a formal investigation.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. CENIDH received 422 complaints of torture or degrading treatment by the authorities during the year and verified 201 of these. The Inspector General's Office recorded 620 complaints of mistreatment by police, including those submitted by CENIDH, and found 191 to have merit. The Inspector General punished 351 officers in these cases. Among the complaints were 103 instances in which police seriously wounded criminal suspects while attempting to arrest them. By year's end, the police had dishonorably discharged 7 officers and referred 139 officers to the courts.

The National Police reduced the law enforcement role of voluntary police, private citizens used on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief. Voluntary police do not receive a salary or professional training. The police can apply no administrative sanctions to the volunteers, other than to terminate their status. In 2000 former Chief of Police Franco Montealegre terminated the use of voluntary police in Managua; however, as of September, there were 1,681 voluntary police outside of Managua, a 22 percent decrease from the 2,170 in 2001. Several were implicated in human rights abuses during the year.

The Inspector General's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the National Police hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive training during the year.

The Inspector General's Office reported that it received a total of 399 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 85 to have merit. The Inspector General's Office punished a total of 131 officers for violations of human rights. Of those punished, the police discharged 1 officer dishonorably, remanded 50 to the courts, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On February 23, a group of nearly 30 police, led by Captain Maribel Ruiz Lovo, wounded 15 people as they attempted to evict 13 families who were allegedly squatting on disputed land on the island of Ometepe. Civil District Judge Gloria Maria Arauz and Municipal Judge Hazel Sandino ordered the eviction. Police Subcommissioner Fidel Dominguez Alvarez authorized the eviction action. The police encountered violent resistance from the evictees and responded forcefully to them, up to and including firing their weapons. The evictees were reportedly unarmed, except for crude weapons such as rocks and sticks. The Supreme Court (CSJ) launched an immediate investigation of Judges Arauz and Sandino's roles in the case, and, less than a month later, both were dismissed from their judicial posts. The Police Inspector General immediately formed a special commission to investigate the police personnel involved and suspended Subcommissioner Alvarez during the investigation. In May a court convicted eight police officers involved in the raid, including Subcommissioner Alvarez and Captain Ruiz Lovo, and sentenced them to various terms in prison. The officers' appeals of their convictions were pending at year's end.

On March 16, Rivas police officers Justo Alcocer Fajardo and Jorge Ferrey allegedly beat 19-year-old Nestor Guadamuz Marengo, who eventually died of his injuries. A Rivas court detained the officers for 5 months during the ensuing investigation and trial. The trial ended in an acquittal, and both officers continued to serve on the police force at year's end.

On April 19, a female detainee accused a guard, William Jesus Hernandez Mendez, of rape. An investigation by the Internal Affairs Office verified the allegations against Mendez based on forensic evidence. A court acquitted Mendez; however, the police gave him a dishonorable discharge for violating prison regulations prohibiting sexual relations between prisoners and guards.

On July 15, a female prisoner in the Chinandega prison accused two guards, Felix Bertilio Moreno and Mariano Romero, of rape. The authorities detained them on July 16. An independent forensic scientist found no signs of violence and believed the incident to be consensual. The victim dropped the charges and the officers were released. However, the officers were stripped of their rank.

During the year, the police did not launch an investigation into the January 2001 police beating of Pedro Antonio Castro Baltodano in Managua. They maintained that no police personnel were involved in spite of allegations to the contrary by the Nicaraguan Association for Human Rights (ANPDH). It does not appear that any formal investigation will be initiated.

The trial of police officer Bismark Laguna for the June 2001 shooting of gang members Juan Carlos Mendoza and Lenin Calderon Mendoza in San Isidro, Matagalpa remained stalled and unresolved at year's end. Laguna was allowed to remain free pending the trial's conclusion. The presiding judge, Carla Emilia Lopez, said that the case was bogged down by a lack of interest on the part of the involved parties. There appeared little chance that a judgment would ever be made in the trial.

Various NGOs provided the police and the army with human rights training (*see* Section 4).

Prison conditions remained harsh. The number of prisoners who spent 6 months or more incarcerated without a trial increased significantly (*see* Section 1.d.). According to government statistics, the prisons, with an official capacity of 5,132, had a total inmate population of 5,624 in December, compared with 5,060 in November 2001 and 4,903 in September 2000. Detainees were held separately from convicted prisoners (*see* Section 1.e.).

Prison guards received human rights training from NGOs and the Catholic Church and generally treated prisoners well, although there were some reports of abuses. There were no reports of riots or other violence during the year.

The prison system remained underfunded and medical attention ranged from inadequate to nonexistent. Medical care available to prisoners fell far short of basic needs. For example, for all 8 penitentiaries and 5,624 prisoners, prison authorities maintained a staff of 24 specialists, including doctors, psychologists, teachers, and social workers. Prison authorities also reported that 49 percent of prisoners were without beds; these prisoners slept on concrete beds or floors. Several churches, national and international NGOs donated foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls. Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells during their trials,

since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 105 prisoners. The authorities occasionally released detainees when they no longer could feed them. Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 3.8 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in areas such as timely release of inmates granted parole. As of December, 1 percent of the prison population was between the ages of 15 and 18, less than a quarter of what it was in 1999. All youths were housed in separate prison cells from adults; the youths were on a different schedule for mealtime and recreational activities.

In August Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged detainees throughout the penal system. According to the survey, the police did not inform over 21 percent of the respondents why they were being detained at the time of their arrest, the police mistreated 47 percent, and 48 percent said that they were detained 3 days or more before seeing a judge. Fully half said they were not aware of being assigned a defense attorney, and 24 percent said they were incarcerated with adults. The Director of Prison Systems maintained that children were held in separate cells and that their rights generally were respected.

In September Casa Alianza and the Center for Justice and International Law presented a complaint to the Inter-American Human Rights Commission regarding the 1999 suicide of 16-year-old Wilmer Gonzalez Rojas inside the adult jail in Tipitapa. The IACHR had not decided whether to accept the case by year's end.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention by the police remained a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Compliance with this law increased significantly since 1999, largely due to pressure from the Police Internal Affairs office and support for compliance from the Chief of Police. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups were critical of the law for providing inadequate judicial oversight of police arrests.

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (*see* Section 1.c.). The number of prisoners who spent 6 months or more incarcerated without a trial increased significantly. In 2000, the Criminal Chamber of the CSJ ordered all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. However, according to government statistics, 10 percent of 5,624 prisoners had been in jail for 6 months or longer without a trial, up from 2 percent in 2001 and 4 percent in 2000. Statistics from the Department of Prisons indicated that 26 percent of all prisoners being held were awaiting final verdicts. Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was susceptible to corruption and political influence. The judiciary was hampered by arcane legal codes, prosecutors who played a passive role, an underfunded and understaffed Public Defender's Office, judges and lawyers who often lacked sufficient training or education, and corruption. Many judges did not have previous experience as lawyers. Judges' political sympathies, acceptance of bribes, or influence from political leaders reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney General's Office rather than the police investigate crimes committed by and against juveniles. The 1994 military code requires the civilian court system to try members of the military charged with common crimes. A 5-year administration of justice reform program, begun in 1997, achieved a number of its objectives, including a Judicial Organic Law and a new Criminal Procedures Code;

however, the revision of the country's outdated Penal Code remained bottled up in the National Assembly. The 1999 Judicial Organic Law contained a provision that established minimum professional standards for judicial appointees. However, a Judicial Career law to establish a more professional and independent judiciary remained in the National Assembly for consideration and action at year's end. In December, the 2001 Criminal Procedures Code entered into effect. It will alter significantly the way that trials are held. Instead of the Napoleonic trial system that emphasizes the role of magistrates and written evidence, the new system will be an adversarial-style system that allows oral arguments from both the defense and the prosecution. The Assembly began the process to approve a new Penal Code in 2000; however, an extended political dispute between the administration and the Assembly delayed the legislation. Nonetheless, in June the Penal Code was modified to include certain economic crimes, including illegal enrichment. In 1999 the National Assembly approved a reform of the Public Ministry that streamlined the judicial process by separating the defense and the prosecutorial functions. Specifically, the reform transferred powers from the Attorney General's Office (Procuraduria) to a newly created Prosecutor General's Office (Fiscalia), which is charged with prosecuting criminal cases. In November 2001, the National Assembly elected Julio Centeno Gomez to the new position of Fiscal General. The Procuraduria continued to have the responsibility to defend the Government against legal action taken by private or other public actors. In addition, the Procuraduria was empowered to prosecute criminally persons when the state has been aggrieved; for example, the misappropriation of government funds by public officials. In 2000 the Government opened new property tribunals to handle cases concerning seized properties. In November, the CSJ consolidated these tribunals into a single tribunal due to budgetary concerns (*see* Section 1.f.). The civil and criminal courts continued to expedite the judicial process for those in prison without a prior court hearing; however, the number of suspects in prison awaiting trial increased. Human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or rulings in favor of the politically connected party remained the most common manifestations of judicial corruption. The Supreme Court's campaign to reduce incompetence and corruption in the judiciary slowed during the year. Since the campaign began in 1997, the CSJ has removed a total of 105 judges—more than one-third of the 300 judges in the system; however, only one judge was removed during the year.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a Public Defender's Office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more were needed. The court requested funding for 26 additional public defenders to be located outside of Managua, but only one of these requests was approved for Ciudad Dario. Elsewhere in the country where public defenders were not available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appointed attorneys from a standard list to represent indigent defendants; however, many attorneys paid a fine of about \$7.00 (100 cordobas) rather than represent such clients because the State did not pay for attorneys for the indigent.

According to press accounts, the number of indigent defendants who went to trial without an attorney to represent them decreased, despite difficulties in fully implementing the provisions of the Judicial Organic law. However, high-ranking officials in the Public Defender's Office complained that they continued to find judges willing to sentence defendants without the presence of a public defender. Until the end of the year, the country used the Napoleonic legal system. Police had to present a detained suspect before a judge within 48 hours, who had to hold a preliminary hearing within 10 days. These constitutionally mandated deadlines were usually observed. If a judge ruled the suspect was provisionally guilty at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a 5-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution is 6 months, 560 suspects were held without trial for longer periods, according to the CSJ. On December 24, an entirely different system of prosecuting criminal cases entered into effect. The new penal process is more adversarial and transparent and relies more on the initiative of prosecutors and less on the initiative of judges and magistrates to file

charges. It prescribes an arraignment at which a judge decides whether to send the case to trial or dismiss it. Once the case reaches trial, the judge takes a neutral presiding role, and both sides present oral arguments to a jury. The new system will be applied initially to the most serious offenses. By December 2003, the new system will apply to all criminal cases. The new system offers greater transparency by allowing the accused greater access to the process. However, its implementation could cause more trial delays as the judicial system adjusts to a radically different process, including potentially serious staffing shortfalls for prosecutors and public defenders, since they, rather than judges, take the lead in conducting trials under the new system. The country still lacks an effective civil law system. Many criminal cases are really civil disputes. Often the effect of a criminal proceeding in these matters is to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverts resources from an overburdened Public Prosecutor's Office that otherwise could be directed toward genuine criminal matters. There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers. The 1979–91 Sandinista regime expropriated nearly 20,000 properties from Somoza regime officials and thousands of others, including those who remained out of the country for more than 6 months. These property confiscations are considered legal, as are subsequent transfers of the property to third parties, as long as the confiscations were conducted according to the law in effect at the time of confiscation. The law provides claimants to confiscated property two methods of resolution. An administrative claim process allows compensation with long-term low-interest government bonds or, in a few cases, return of the property or land swaps. Bond compensation generally is unattractive to claimants, since it is based on the property's taxable value rather than market value, and makes no provision for lost profits or interest due since the date of confiscation. Furthermore, compensation is paid in 15-year bonds with below-market interest rates. As of mid-year, newly issued bonds of this type sold at 37 percent of face value. Press reports indicated that at the end of June, a total of 7,488 persons had resolved their property cases. In 2000 the Government established five Property Appeals Tribunals that have procedures including mediation, binding arbitration, and expedited trials. As of August, the tribunals reported that 338 cases had been filed. Of these, 184 had passed through the mediation process, 62 (18 percent) of which were settled through mediated agreements. When mediation was not successful, the cases were moved on to arbitration or were returned to district courts for expedited trials. As of July, 44 cases had gone to arbitration; however, none had completed that stage. In November, the CSJ consolidated all 5 tribunals into a single tribunal due to budgetary concerns. The tribunals receive property cases passed to them by the regular courts and, upon conclusion of mediation or arbitration, return the final decision to the appropriate regular court, which issues a court order containing the terms of the final mediation or arbitration results. Most confiscated property claimants using the judicial system do not elect arbitration because the arbitrators are costly. Therefore, most cases not successfully mediated return to district courts for trial. The tribunals appear to be biased in favor of the current occupants of confiscated properties, even when they did not obtain the properties in accordance with Sandinista laws. These tribunals, like the judicial system as a whole, appeared to be subject to political and personal manipulation.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, defined as a social responsibility, implying the potential for sanctions against the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government did not invoke these provisions to suppress the media. In March 2001, the National Assembly unanimously approved a law proposing a professional journalists' guild. The journalistic community was divided

sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press. The vagueness of language concerning the Government's role in establishing and regulating journalists' salaries, and its possible role in governing a professional journalists' association—and thereby journalism itself in the country—remained a concern to many observers. The law was to take effect with stipulations that formation of the guild occur within 3 months. However, the commission that would structure the journalists' guild had not been established by year's end due to conflicts between rival journalist associations whose members were to be grandfathered into the guild. Consequently, the law had no practical consequence during the year.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. News media covered a series of scandals and allegations of government corruption very openly and without restriction. However, in October the Government closed down radio station "La Poderosa," run by supporters of former President Aleman, when it determined that the license held by Coprosa, a Catholic Church-affiliated NGO, was invalid because Coprosa had not completed all of the requirements to register legally as an NGO with the Ministry of government. Other media and some political leaders sharply criticized the closing of La Poderosa while at the same time stressing the need for all media to follow ethical standards and engage in better self-regulation. La Poderosa had broadcast language that sometimes incited attacks on the personal security of President Bolanos and other public officials. The Bolanos administration attempted to standardize the way that governmental advertising funds were allocated to the various media outlets by implementing a system based on market share. This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them.

There was one instance of possible media intimidation during the year. In July the police detained Luis Felipe Palacios, a reporter for La Prensa, the country's largest newspaper, to question him regarding a story that alleged that Major General Roberto Calderon, Inspector General of the Army, was involved in trafficking arms and drugs. Accompanied by other La Prensa staff, a police escort took Palacios to the criminal investigation headquarters of the national police. There, investigator Dennis Tinoco allegedly threatened to arrest photographer Manuel Esquivel, who had accompanied the La Prensa group, for taking his picture, and refused to relent until the film was removed from the camera and exposed. Palacios was then interviewed briefly and released. Tinoco maintained that he had ordered the police interview to pursue any legitimate leads into criminal acts alleged by the story. The police subsequently closed the case and publicly apologized for the incident after intense criticism from a wide range of media outlets and civil society groups, who viewed the incident as a clear intention to intimidate Palacios into not reporting on a sensitive case involving a senior military officer.

In October Tirso Moreno was arrested and charged with kidnaping and endangerment after he broke into the offices of the newspaper La Prensa, fired shots in the air, and held a dozen staff hostages for several hours. Moreno blamed La Prensa's reporting on corruption during the Aleman administration for the death of Aleman's son earlier in the day. Moreno was provisionally convicted on these charges, but the prosecutor appealed the decision, seeking the more serious charges of assault and attempted homicide. By year's end, there was no decision on this appeal. The Inter-American Press Association condemned the attack on La Prensa.

The news medium with the largest national audience is radio; however, polls show that television is the primary source of news in the cities. There are 174 chartered radio stations in the country, 68 AM stations and 106 FM stations; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are 12 Managua-based television stations, 7 of which carry news programming, some with noticeable partisan political content. In addition, there are 70 cable television franchises that offer services in most large and medium-sized cities.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respected this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and chose not to register. The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected

this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government's requirements for legal recognition of a church are similar to its requirements for other private associations (*see* Section 2.b.). A church must apply for "Personeria Jurídica" (legal standing), which must be approved by the National Assembly. Following Assembly approval, a church must register with the Ministry of government as an association or a foundation. The Roman Catholic Church is not an official state religion; however, it enjoys a close relationship with the Government. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. Catholic Church leaders routinely meet with senior government officials. The historical position of the Church is such that most religiously affiliated monuments and memorials are related to the Catholic Church. At times there have been allegations that government officials have provided financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the religious freedom of other religions.

For a more detailed discussion see the 2002 International Freedom Report.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government generally respected these rights in practice. In 1998 the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. The right of citizens to return to the country is not established in the Constitution, but in practice the Government did not restrict anyone's return. The Constitution was amended in January 2000 to affirm that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship of other countries at least 4 years prior to their election or appointment.

In December the CSJ determined that the Government's May 2000 decision to nullify retroactively the citizenship of Jose Antonio Alvarado was unconstitutional, and that Alvarado had never lost his Nicaraguan citizenship. In June 2001, without waiting for a ruling from the CSJ, the CSE had disqualified Alvarado from running as the Vice Presidential candidate in the 2001 national election. This decision was widely portrayed as a political effort by then-President Aleman to block Alvarado's candidacy.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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. National elections were held in November 2001.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The President heads the Executive Branch and a Cabinet appointed by the President, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the president to hold consecutive terms in office. A single-chamber, 92-member National Assembly exercises legislative power. In 2001 voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the 2 autonomous regions. Under the constitutional reforms of 2000, the outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5-year terms on January 9,

2007. The Supreme Electoral Council is an independent fourth branch of government. However, the CSE has been seriously undermined by internal political disputes (see Section 5). The constitutional reforms of 2000 changed the requirements that a presidential candidate must meet to avoid a second-round runoff election; expanded the Supreme Court from 12 to 16 judges; expanded the CSE from 5 to 7 magistrates; imposed a requirement for a two-thirds majority vote in the assembly, rather than the previous qualified majority vote, to lift the President's immunity from prosecution; and replaced the single comptroller general with a 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by government officials. In addition, a political party loses its legal status if it obtains less than 4 percent of the vote in a general election. Based on this provision, the CSE declared the vast majority of parties ineligible to field candidates in the 2001 general elections—only 3 national parties competed in the elections, compared with over 20 parties in the 1996 elections. In November the CSJ overturned the CSE's exclusion of 29 parties from participation in previous elections as unconstitutional. In November 2001, generally free and fair national elections were held under the auspices of the CSE. Voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party as President with 56 percent of the vote; Sandinista candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party (PC) won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots. The FSLN alleged that irregularities in vote counting reduced the number of seats that it received in the Assembly, and the PC stated that the two main parties were trying to exclude it from the Assembly.

In March Judge Gertrudis Arias named former President Aleman in a corruption case involving the diversion of government funds from a state-owned television station, Channel 6, to businesses owned by Aleman, his relatives, and his associates. She did not indict him because he enjoyed immunity from prosecution as a National Assembly Deputy. In August, President Bolanos accused Aleman of diverting over \$100 million (1 billion, 400 million cordobas) from government coffers for personal benefit. Judge Juana Mendez named him in the case that was subsequently opened, but could not indict him because of his parliamentary immunity. In December, the National Assembly, by a majority vote, lifted his immunity. Judge Iliana Perez immediately placed him under house arrest for embezzlement and money laundering, and he remained under house arrest at the end of the year.

In September, in what was widely considered a political decision, Judge Mendez named President Bolanos, Vice President Rizo, and about 30 other leaders of the PLC in a campaign finance case. The case involved the alleged misuse of government funds and foreign government donations in the PLC's municipal election campaign in 2000 and its national election campaign in 2001. Requests to lift the immunity of President Bolanos, Vice President Rizo, and several National Assembly Deputies were pending in the National Assembly at year's end.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women served as President and Vice President until January 1997, and a woman served as president of the CSE until January 2000. In addition, 3 of the 16 Supreme Court justices were female until July, when the terms of 5 justices, including one woman, ended. On October 25, the Magistrates of the Supreme Court of Justice (CSJ) elected Alba Luz Ramos as President, the first woman President in the history of the Court. Women held ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November 2001, out of a total of 90 elected members. Women hold approximately 70 percent of the judgeships in the country. Two members of the National Assembly claim indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

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

With some exceptions, human rights groups operated without government interference. The largest group to deal with general issues of human rights was CENIDH. Many other groups focused on a particular area of human rights, such as Casa Alianza which primarily focuses on children's issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focused on the 13 municipalities affected most adversely by the decade-long civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services helped maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, over the past several years, the commissions continued to report increased support from all elements they serve, including law enforcement.

The Human Rights Ombudsman's Office (PPDDH), the autonomous government-financed human rights office, struggled with budget shortfalls and intraoffice discord. A 1995 law created the PPDDH, with the Ombudsman to be elected by the National Assembly; however, it was not until 1999 that the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman. There also are Special Ombudsmen for Children's Issues, Women's Issues, and Indigenous Affairs. The PPDDH began to investigate actively human rights violations during 2000, and Perez demonstrated his independence from the Aleman administration, pursuing cases even if they contradicted government policies. For example, the PPDDH weighed in heavily against the CSE's decision regarding Jose Antonio Alvarado, which Aleman supported (see Section 2.d.). The Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent. As a result of serious government-wide budget constraints, the PPDDH budget has not been restored or increased under the Bolanos administration, and the reduced operating budget has limited the effectiveness of the office and its ability to establish regional offices throughout the country. In July a public dispute between Perez and two of his Special Ombudsmen who wanted to have a greater hand in the direction of the office further undermined the PPDDH. After more than a month of rancorous charges and counter-charges, the three came to what they said was an amicable resolution of the dispute.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women.—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 41,487 reports filed by women between January and December, including reports filed at the Women's Commissariats through November, more than 19,788 concerned physical or sexual abuse, a 47 percent increase in the number of reported cases from 2001. The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety. The National Police, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, they rarely prosecuted perpetrators because victims often refused to press charges. Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence. In October the National Police Women's Commissariats as well as a number of human rights advocates expressed reservations about the potentially negative impact of the adversarial nature of hearing cases under the new Criminal Procedures Code. Advocates expressed concern that victims of domestic violence could be less likely to bring charges under the new process since the victims, under the new system, have to face their abusers directly and have no assurance the abusers will be jailed. Under the old system, those accused of domestic violence were usually jailed while the judge investigated the case and made a preliminary ruling, a period of up to 10 days. This "cooling-off" period was seen as providing some protection to the victim. Advocates also fear that many judges could put undue pressure on domestic

violence victims to use alternate mediation rather than endure a trial, in which they will face cross-examination.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison. According to statistics from the National Police, the police received 1,308 rape complaints during the year compared to 1,170 reported instances of rape in 2001. Many women are reluctant to report abuse or file charges due to the social stigma attached to victims of rape. The police manage 13 women's commissariats in 13 cities with a total staff of 75 people. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts. They also investigate and help to prosecute criminal complaints and refer victims to other governmental and nongovernmental assistance agencies. As of November, the commissariats processed a total of 2,363 cases—1,867 cases of domestic violence and 496 cases of sexual infractions.

In May the Appeals Court denied the appeal by Zoilamerica Narvaez of the December 2001 decision of Judge Juana Mendez to drop sexual molestation, harassment, and rape charges against Daniel Ortega on the grounds that the 5-year statute of limitations had expired. The case was before the Supreme Court at year's end. On March 4, the IACHR held a hearing on the Narvaez case, focusing on the issue of whether the Government had denied Narvaez due process. The Government subsequently expressed its willingness to accept an "amicable solution" to the dispute, discussions on which were underway at year's end. Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations, Julio Gonzalez, and the Director of Police Economic Investigations, Carlos Bandana, prostitutes in the country work without a pimp, since prostitution is legal but pimping is not. Statistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies supported this, including an intensive diagnostic done during the year by the University of Central America in the tourist city of Granada, in which all the underaged prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and a card certifying that they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports of isolated cases of the trafficking of women for prostitution (*see* Section 6.f.). The law prohibits sexual harassment in the workplace; however, it continued to be a problem.

Although the Constitution provides for equality between the sexes, discrimination against women persisted. According to a poll released in April 2000 by the Nicaraguan Women's Institute in conjunction with the Government, women comprised approximately 61 percent of the public sector labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differed significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advanced more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors. According to a 1998 "Nicaraguan Survey on Demographics and Health" by the National Statistical Institute, women have equal or somewhat better access to education than men, especially in urban areas. Women are generally underpaid, but the majority of women have some type of employment. An October 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment have some type of job.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace. For example, the Program for Reform and Modernization of the Public Sector, directed by the Vice President, was formed in 1998 in an attempt to publicize issues of gender discrimination by collecting statistics on salary differences and hiring techniques in the public sector. The initiative produced a number of publications on the subject

of women in the workplace, including an extensive study in 2000 of women working in the public sector and a manual distributed to managers in the public sector during the year that outlined procedures to prevent gender discrimination in the workplace.

Children.—The Government publicly expressed its commitment to children's human rights and welfare; however, government-wide budget constraints prevented it from providing adequate funding levels to children's programs or primary education. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 15 years of age and younger made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced, and 20 percent of the population was classified as illiterate. According to census figures from 2001, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively, up from 73 and 75 percent in 1995. However, secondary school enrollment rates dropped to 35 and 45 percent from 1995 levels of 39 and 47 percent. Juvenile offenders under the age of 17 comprise less than one percent of offenders incarcerated. This low figure is largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles. During the year, 47 minors died as a result of violent crime. During the same period, victims of rape included 277 children under the age of 13 and 658 between the ages of 13 and 17. There were an estimated 1,216 reported cases of child abuse (physical and psychological), 314 cases of child kidnaping, and 100 children who disappeared. The national police estimated that about 63 percent of sexual abuse victims were under the age of 18, and that 36 percent were younger than 13. A study by the University of Leon indicated that 27 percent of girls and 20 percent of boys experienced sexual abuse. According to a Ministry of Labor study, over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under the age of 5 years who live on the streets is growing.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports (*see* Section 6.f.).

The Child and Family Law provides that juvenile prisoners can no longer be held in adult facilities or for more than 24 hours without being charged (*see* Section 1.c.). Child labor is a problem (*see* Section 6.d.).

Persons with Disabilities.—In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom received medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGOs, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members. Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring of 2000, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that sheltered about 100 persons with disabilities, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry had agreed to cover a significant percentage of the Association's budget, its failure to do so forced the Association's employees to go without pay, and resulted in a significant decrease in medicinal, clothing, and food supplies. Many organizations that help the disabled called for the Government to focus more attention on the needs and interests of persons with disabilities; however, the Government did not restore funding for the shelter. The Blue Bird Protection Association continued to operate the shelter with funds from private organizations, which hold an annual telethon to help raise funds.

The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that they must be considered equal to other workers. However, representatives of the Danish Association of Disability noted that this law rarely is put into practice. This organization implemented a program called Prodinic, with the objective of strengthening the country's disabled associations by assisting 20 different groups in Managua, Masaya, Leon, Juigalpa, and Esteli. This group is lobbying for easier access to transportation and travel for the disabled throughout the country.

Indigenous Persons.—Indigenous people constitute approximately 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory, but only 12 percent of the population. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000). The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political party known as Yatama, which has representation in regional and municipal councils. In 2000 the CSE ruled that the Yatama political party did not meet the qualifications to participate in the November 2000 municipal elections; however, it reversed its decision following the election after a high rate of abstentions in Yatama-dominated areas and threats of violence by Yatama supporters. Yatama was allowed to run departmental candidates for the National Assembly in the November 2001 national elections (*see* Section 3).

In March the CSE held sparsely attended elections for the RAAN and RAAS Regional Councils. The Regional Councils, created by the 1987 Law of Autonomy, are delegated limited authority to administer the economic, environmental, and cultural resources of the Atlantic Coastal Regions and to represent the political interests of the indigenous populations before central government institutions. The Councils are each composed of 45 elected members plus the region's delegation to the National Assembly; in the RAAN there are three Assembly Delegates, in the RAAS, two. Thus the RAAN Council has a total of 48 members, the RAAS, 47. The Regional Councils met in May, as required by law, to select their respective governors and executive councils to oversee the day-to-day administration of the regions. The CSE, which has a PLC majority, refused to recognize these elections, which resulted in executive councils and governors that did not favor the ruling PLC. The delay continued for nearly 4 months in the RAAN and 9 months in the RAAS, leaving the Autonomous Regions without a regional government during this time. In the RAAN, Yatama became the power broker when neither of the national political parties managed to gain an outright majority in the 48-member Regional Council. Yatama formed a coalition with the FSLN and in May elected an executive council and governor in a raucous election in which the PLC-affiliated CSE magistrates and the PLC Regional Council Members refused to participate. The CSJ ruled that the CSE had to reconvene the Regional Council, hold a new election for the Executive Council, and properly certify the election, which it finally did at the end of June. In the RAAS, the PLC held a substantial majority of the 47-member Regional Council; however, because of technical irregularities with the CSE's administration of the election, the CSJ once again ruled that the Regional Council had to reelect the Regional Governor and Executive Council. A critical number of PLC Regional Council members refused to back their party's candidates for governor and executive council, leaving no majority in place. Maverick PLC members eventually formed a majority coalition with the FSLN and elected their own slate of regional officials. However, the election could not be certified because no one had been elected to replace the CSE President, Roberto Rivas, whose term had expired in July.

Without any authorities in place to administer them, many regional and municipal projects in the RAAN and the RAAS were suspended, although the problem became more acute in the RAAS, where the uncertainty continued longer. The RAAS had no one with the authority to negotiate for funds from the national government or foreign donors, and government salaries could not be paid. This furthered public perceptions of central government neglect, and led to threats of violence and the takeover of public facilities by frustrated citizens.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central government often made decisions without adequate community consultation. For example, in July the central government decided to announce its intention to solicit bids for oil and gas exploration off the Atlantic coast without consulting with either regional leaders or communities.

In August 2001, the IACHR determined that the Government violated the human rights of the Awás Tingni (Sumo) Community by granting 30-year logging licenses to foreign companies on nearly 153.2 thousand acres of Sumo ancestral lands without consulting the Sumo. The Commission ruled that the country's legal protections for indigenous lands were "illusory and ineffective" and ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country within 15 months. The Commission also ordered the Government to pay \$30,000 (420,000 cordobas) to the Sumo and to invest \$50,000

(700 thousand cordobas) in projects beneficial to the Sumo. Pursuant to the IACHR's decision, the Government paid the \$30,000 and said it was committed to funding more than \$50,000 in Sumo community projects. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs formed a commission that proposed a number of legal changes and mechanisms to the National Assembly, including the clear demarcation and protection of indigenous lands. This legislation was voted into law in December, meeting the IACHR deadline, although there were serious reservations about how it would be implemented.

As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. A few residents of the RAAN threatened to take up arms to fight for independence from Managua if their needs were not addressed, but there is little concern that these isolated statements represent a threat by the indigenous communities.

On April 8, unknown persons shot and killed Francisco Jose Garcia Valle, husband of Dr. Maria Acosta, a lawyer for indigenous rights in the Atlantic Coast known for her work fighting the controversial sale by a private individual of the Pearl Cays off the coast. Garcia was a professor at a local university but not involved with his wife's political work. The circumstances surrounding his death sparked suspicions that it was a politically motivated murder by Acosta's opponents. The police investigating the crime later determined that three tenants of the family's rental apartment committed the homicide, and that robbery had not been a motive. Press reports indicated that at least one of the suspected killers, Ivan Rivera, was employed as a chauffeur and security guard by the Pearl Cays' realtor, who was suspected to be the intellectual author of the crime. A judge issued an arrest warrant against Rivera but absolved the realtor. The police reportedly matched the 25-caliber murder weapon to one registered to the realtor, who alleged that the police falsified the ballistics report. By year's end, the police had not yet captured Rivera, but did arrest one of his suspected accomplices, who confirmed that Rivera led that group and committed the murder.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

National/Racial/Ethnic Minorities.—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the RAAN and the RAAS sometimes linked the Government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code that entered into effect in 1996 reaffirmed this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (*see* Section 6.b.). The Labor Code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force is unionized. Unions are independent of the Government, although most are affiliated with political parties to varying degrees.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, includ-

ing union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes use this practice to stymie unionization attempts. Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

b. The Right to Organize and Bargain Collectively.—The Constitution provides for the right to bargain collectively, and the 1996 Labor Code reaffirmed this right. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the 1996 Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are thus organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union. The Constitution recognizes the right to strike; however, legal strikes are rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there have been only three legal strikes since the 1996 Labor Code came into effect; however, there have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs. There were several allegations of violations of the right to organize. The Ministry of Labor investigated these allegations and concluded that employers acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal. Notwithstanding the legality of employer actions, the result was to weaken significantly an important union in the free trade zone (FTZ), the Sandinista Workers Central (CST). In the last few years, though not during the year, the CST declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers. Consequently, the Ministry of Labor consistently ruled the strikes illegal. Employers then fired the striking workers based on the Ministry's ruling. In essence, employers took advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules. The 2001 appeal by the textile firm Mil Colores of a judge's order reinstating Juan Carlos Smith Flores was pending at year's end.

On October 11, 2001, the CST workers elected Maria Elia Martinez Rivas as union Secretary General. To comply with the 20-member requirement and avoid being decertified, the CST union enlisted new members. On February 8, Mil Colores fired Rivas who claimed that she did not infringe on any regulations and had never received a reprimand. Rivas, with the aid of the CST, took the issue to court and alleged that, by impeding the workers' right to organize, Mil Colores violated the Constitution, laws, human rights, and international agreements ratified by the country. Her case was pending at year's end.

Other than the Mil Colores incident, there were no other significant labor disputes during the year.

There are 39 enterprises operating in the Government-run FTZ, employing approximately 25,000 workers. Labor laws apply equally in the FTZs, except for the minimum wage which varies by industry. In addition, there are 5 authorized private FTZs; the 11 enterprises in these zones employ some 17,000 workers, for a total of 42,000 workers in all FTZs. Approximately half the workers in the Government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The Ministry of Labor reports that there were eight collective bargaining agreements in effect in the FTZs and five in the negotiation process. Union organizing efforts have encountered strong employer opposition in the FTZs.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZs, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980s, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay

wages that average over \$192 (2,400 cordobas) per month, almost three times the minimum wage.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.).

In December, Hansae S.A, a Korean garment factory in the Free Trade Zone, violated the overtime provisions of the Nicaraguan labor code. Whereas the code permits overtime of no more than 3 hours per day and no more than 9 hours per week, labor unions and the Ministry of Labor charged, and Hansae officials admitted, that some employees at Hansae were working far in excess of the permitted number of hours. In some cases, employees were required to stay overnight, making for a 24-hour workday, two or three times a month. Hansae officials explained that the practice was recent and that it was due to unusually high demand for their products. The Hansae General Manager promised to discontinue the practice. According to union officials, the violation did not recur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The Ministry of Labor estimates that approximately 300,000 children are employed; CENIDH estimates that there are approximately 322,000 working children. Over 148,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A 1996 study by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age worked, including approximately 109,000 employed in rural areas on coffee, tobacco, rice, and banana plantations. The study found that 6,219 children worked in urban areas as beggars, self-employed car washers, or parking attendants. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars. Child prostitution is a serious problem (see Section 6.f.).

The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZs. The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program—known as the Traffic Light Plan—to keep 647 children off city intersections where they wash windshields, sell fruit, or beg for money from motorists stopped at red lights. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts. The Ministry of Family reports that out of 600 children in the Traffic Light Plan, 498 (or 83 percent) returned to school. The remainder returned to the intersections to work.

e. Acceptable Conditions of Work.—The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. A different minimum wage, which must be reviewed every 6 months, applies to each sector of the economy. A new minimum wage scale took effect in April. The majority of workers earn well above the statutory minimum

rates. Ministry of Labor statistics indicated that during the year, the average minimum wage, i.e., the actual minimum wage paid by employers for each sector, was \$72 (1,058 cordobas) overall. By sector, the average minimum wage was as follows: agriculture, \$45 (661 cordobas plus food); fisheries, \$56 (818 cordobas); mining, \$137 (1,994 cordobas); industrial manufacture, \$74 (1,086 cordobas); electric, gas, and water utilities \$117 (1,711 cordobas); construction, \$119 (1,740 cordobas); restaurants and hotels, \$95 (1,383 cordobas); transportation, \$102 (1,495 cordobas); banking, \$92 (1,341 cordobas); community and social services, \$71 (1,038 cordobas); and central and municipal government (includes health and education employees), \$51 (743 cordobas). Even the average minimum wage does not provide a decent standard of living for a worker and family. In every sector, the average minimum wage falls below the Government estimate of what an urban family must spend each month for a basic basket of goods (\$141 or 2,065 cordobas).

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

During the year, there were a number of incidents concerning worker injuries that reflected unacceptable conditions of work. On April 12, Jose de Jesus Miranda Perez received second degree burns from a steam press at the Rocedes plant, an FTZ factory. The Ministry of Labor fined the Rocedes plant \$667 (10,000 cordobas).

On June 23, Deyson Joel Herrera, age 19, lost part of his finger at the Nien Hsing International plant, located within a FTZ. After completing an accident report, Herrera was taken to the hospital, where the doctor attached what remained of the finger. When Herrera returned to the doctor on June 28 he was told that the health care contract with Nien Hsing International had ended, and that Herrera could no longer receive treatment.

On July 2, Orlin Frank Meza Orozco received second degree burns at the Chentex plant, located within an FTZ. Orozco was taken to the hospital where he received treatment.

In August Ericka Morales, the Rocedes factory supervisor attacked Maria Ramona Beltran Espinoza. Morales struck Espinoza with a metal bar after she inquired about her brother's wages, which she claimed had not been paid. Rocedes then terminated Espinoza's contract. Espinoza went to the Ministry of Labor for aid; however, the Ministry claimed that it could pursue no legal actions, as Espinoza was no longer an employee at the Rocedes plant.

The enactment of a 2001 law aimed at foreign companies prompted the filing of claims on behalf of thousands of banana workers seeking damages for exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal in the country. The Attorney General's Office prepared an advisory opinion that questioned the constitutionality of certain provisions of the law.

f. Trafficking in Persons.—Nicaragua has a statute that specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. While the preconditions for trafficking exist, there is little documented evidence of a substantial trafficking problem within the country; however, there is some limited evidence that the country is a source for trafficking in women and children to other countries for purposes of sexual exploitation. The Government instituted an awareness campaign with border police and immigration officials at entry points to Honduras to identify and question young women who are not accompanied by family members. In addition, the Government formed a 56-member Anti-Trafficking in Persons Unit within the police. According to the Ministry of Labor, strip clubs are inspected several times each year to ensure that there are no underage workers at these clubs.

The law does not make prostitution illegal, though it bans its promotion; however, the Child and Family Law, which took effect in 1998, defines statutory rape as sexual relations with children 13 years old and younger. Therefore, there is no legal prohibition on prostitution by juveniles 14 and older. According to a number of sources, including the Director of Police Criminal Investigations, Julio Gonzalez, and the Director of Police Economic Investigations, Carlos Bandana, prostitutes in the country work without a pimp, since prostitution is legal but pimping is not. Sta-

tistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies support this, including an intensive diagnostic done during the year by the University of Central America in the tourist city of Granada, in which all the under-aged prostitutes interviewed told the researchers that they operated on their own. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua. UNICEF also noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to using drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue. In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public's attention. During the year, it held a number of public forums on children's issues and trafficking in persons and distributed a number of substantial anti-trafficking publications to the public.

According to press reports, five Nicaraguan women, ages 20–25, were taken to Guatemala by Janeth Esperanza Rivera in May. Rivera promised the women jobs as sales clerks, and a better life in Guatemala. Upon arriving in Guatemala, Rivera sold the women to a group of unidentified men, who locked them up in a room. The women were only allowed out to be prostituted. This continued for 5 days, until 4 of the women escaped and reported the incident to the Guatemalan police. Rivera was captured and a police investigation of her records revealed Rivera had been trafficking women into Guatemala for months. None of the women from the previous trafficking have been located or interviewed.

In October police detained three 17-year-old women near the town of Chinandega traveling to Guatemala. The women were being driven to Guatemala to work in brothels there. Although the women indicated they were not deceived or coerced into going, their travel and work was being facilitated by three alleged traffickers, who were detained by police. The three facilitators were charged with trafficking, but a court in Chinandega acquitted them due to a lack of evidence that trafficking had occurred.

PANAMA

Panama is a representative democracy with an elected executive composed of a president and 2 vice presidents, an elected 71-member unicameral legislature, and an appointed judiciary. In 1999 voters elected President Mireya Moscoso of the Arnulfista party. The Constitution provides for an independent judiciary; however, the judicial system was subject to corruption and political manipulation.

Panama has had no military forces since 1989. The Panamanian Public Forces consisted of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). A 1994 constitutional amendment formally prohibits the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Judicial Technical Police (PTJ), a semiautonomous body with leadership appointed by the Supreme Court, was a separate branch of law enforcement under the Attorney General's Office that performed criminal investigations in support of public prosecutors. The Ministry of government and Justice oversaw the PNP, the SMN, and the SAN; the Ministry of the Presidency supervised the SPI. Police forces responded to civilian authority, had civilian directors, and had internal review procedures to deal with police misconduct. There were occasional reports of abuse by some members of the security forces.

The economy, which uses the U.S. dollar as currency (calling it the Balboa), was based primarily on a well developed services sector that accounted for about 80 per-

cent of gross domestic product (GDP). The country had an estimated population of 2.9 million. GDP growth was negligible for the past 2 years, poverty worsened, and income distribution remained highly skewed, with growing disparities between rich and poor. Unemployment was officially estimated at 13.7 percent; however, private economists believed that it might be several points higher.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Abuse by prison guards, both PNP and civilian, was a recurrent problem of the prison system. Overall prison conditions remained harsh, with periodic outbreaks of internal prison violence. Prolonged pretrial detention was a problem. The judiciary was subject to political manipulation, and the criminal justice system was inefficient and often corrupt. There were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches and monitored communications. The media were subject to political pressure, libel suits, and punitive action by the Government. Violence against women remained a serious problem. Women held some high positions in government, including the presidency; however, discrimination against women persisted. Discrimination against indigenous people, blacks, and ethnic minorities continued to be a problem. Worker rights were limited in export processing zones. Child labor was a problem. Trafficking in persons was a continuing problem. Panama was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On July 15, a 13-year-old indigenous Wounaan girl, Aida (or Ayda) Chirimia, in the Darien village of Biroquera, was shot and killed by a single bullet from a 7.62 millimeter machine gun, reportedly within the local national police compound. The PNP reported that the gun fell and went off accidentally; there were no indications of suicide or a self-inflicted accident. No autopsy was performed. When the gun was sent to the PTJ, reportedly the pin had been mashed, making an investigation nearly impossible. At year's end, the PNP was awaiting ballistic test results from the Public Ministry, which was in charge of the overall investigation. Meanwhile, the Wounaan leaders had access to a volunteer lawyers' association.

In August 2001, the bodies of two men were found at the beach of Punta Chame. Their deaths were linked to two off-duty PNP officers who were dismissed and detained. An investigation into the killings, conducted by the Fourth Superior Prosecutor, continued at year's end.

In April the Truth Commission, established by President Moscoso in January 2001 to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship, released its final report (see Sections 1.b and 4.) Among the cases the Commission investigated was that of an unmarked grave discovered in 1999 on the grounds of a former military base near Panama City that contained the remains of leftist leader Heliodoro Portugal. Three former members of the National Guard—captains Rigoberto Garibaldo, Aquilino Seiro, and Moises Correa—were linked to Portugal's kidnaping and killing. The authorities placed Garibaldo under house arrest, forbade the two others from leaving the country, and reopened the case.

Guerrillas from the terrorist organization Revolutionary Armed Forces of Colombia (FARC) and other Colombian armed groups operated along the border with Colombia and reportedly made occasional deeper incursions into the country. In December a decapitated body was found washed ashore near Jaque, Darien Province. At year's end, the case was under investigation.

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

In August and October 2001, and again in January, a team of foreign forensic anthropologists carried out investigations for the Truth Commission. The team located human remains in numerous locations in five provinces of the country. DNA tests on most of the remains located were underway, but only the remains of Heliodoro Portugal had been positively identified. On December 19, the head of the Truth Commission asked the Attorney General to reopen investigations into four additional disappearances from the late 1960s and early 1970s (see Sections 1.a. and 4).

The Hector Gallego Committee for Disappeared Relatives maintained a list of 120 persons who disappeared during the military dictatorships and who remained missing.

FARC guerrillas (and possibly other Colombian armed groups) reportedly engaged in occasional kidnappings of persons along the border with Colombia; they also harassed and raped residents in Darien Province.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits the use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees, and the public security forces generally performed in a professional and restrained manner. However, there was at least one reported case of excessive use of force against prison inmates during the year, and abuse by prison guards was an occasional problem. The General Penitentiary Directorate (DGSP) asserted that the problem had been reduced and that only minor incidents occurred.

The law providing the legal basis for the PNP includes specific guidelines for the use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. Although not all PNP personnel were trained in the use of force, the PNP provided more training during the year.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed in which, upon completion of the process, the respective director of the PTJ or PNP has the final authority to determine the disposition of each case. The PNP deputy director and secretary general addressed human rights problems that arose in the police force. The offices of professional responsibility were well known in the community, and the rate of complaints remained generally constant in the PTJ office. During the year, the Office of the Human Rights Ombudsman received 62 complaints against the police for abuse of authority (see Section 4). Through late December, the PNP Office of Professional Responsibility received 568 complaints, an average of 11 complaints per week, an increase from 10 per week in 2001. The office investigated and closed 179 complaints without action, dismissed 41 cases for lack of sufficient evidence, penalized officers in 59 cases, and dismissed 29 officers for corruption, burglary, or bribery. Penalties included reduction in rank, dismissal, and in severe cases, criminal prosecution.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By late December, the PTJ Office of Professional Responsibility had conducted 210 investigations, which resulted in the dismissal of 21 agents. The majority of open cases were for mishandling official property such as misplacing guns or radios, and misconduct or improper behavior when off duty.

Corruption among police officers remained a problem. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers with proven involvement in illicit activities; however, both organizations only reacted to egregious abuses, due to a lack of staff, independence, and institutional priority.

During the year, police generally exercised restraint in their treatment of street protesters. In August rioting broke out in Colon for 2 days, and the PNP fired rubber bullets not aimed directly at the protesters (see Section 2.b.).

Prison conditions remained harsh and, in some cases, life threatening, due largely to budget constraints. As of December, the prison system, which had an official capacity for 7,348 persons, held 10,529 prisoners. Most prisons were dilapidated and overcrowded, although Nueva Esperanza prison was newly refurbished. Many of the problems within the prisons resulted not only from obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Pretrial detainees shared cells with sentenced prisoners, in part due to lack of space.

Medical care was inadequate, and prisoners sometimes suffered because of the negligence of the guards. Tuberculosis, AIDS, and other communicable diseases were common among the prison population. The European Union funded some legal, medical, and dental staff for prisons, and there was at least one doctor in each major facility. As of December, there were a total of 18 deaths in prisons during the year: 15 from illnesses, 2 from inmate murder, and 1 suicide.

There were some minor improvements in the prison system overall, including more training of civilian prison guards and PNP guards, who received courses on inmates' rights and penitentiary procedures, especially targeted at new officers and custodians. Other improvements included limited Internet access and computer literacy training for the first time in some women's prisons, more opportunities for work and training in prison, and more construction of new facilities.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials acknowledged that they received and investigated 27 cases during the year; 20 for abuse of authority, and 7 for mistreatment of prisoners.

In November PNP guards reportedly hit and sprayed tear gas on 18 prisoners in the David prison; 2 were sent to the local hospital. Some prisoners then began a limited hunger strike. The Minister of government and Justice ordered an investigation, and the PTJ director said that such events occurred on a regular basis in the prisons. At year's end, the Public Ministry was investigating the incident.

In one high-profile case of guard abuse, 10 members of the PNP were suspended for beating naked prisoners with baseball bats in the (since closed) Modelo prison in 1998; they were convicted and jailed awaiting sentencing at year's end.

The main prisons in Panama City included La Joya (a maximum-security facility), Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. Two additional facilities, La Joyita and El Renacer, held inmates generally accused of less serious crimes.

La Joya, holding most prisoners accused of serious crimes, had a planned capacity of 1,500 but housed 2,278 inmates in December. Gang violence was a problem. Conditions at La Joyita remained problematic, including inmate claims of severe overcrowding, poor sanitation, and abuses by prison custodians against inmates. At year's end, the facility held 2,444 inmates; it was designed to hold 1,770 inmates. Conditions on the island penal colony of Coiba remained harsh and dangerous. The DGSP no longer sent inmates to Coiba and planned to close it; in December the number of inmates had dropped to 52, compared with 114 in 2000. Coiba prisoners suffered from malnutrition and shortages of potable water.

Prison conditions in Colon province also were harsh. Although Nueva Esperanza, a consolidation and update of an older prison in Colon, opened during the year, by December its intended capacity of 800 was already exceeded, as it held 1,222 prisoners. In Nueva Esperanza, both male and female pavilions had separate sections for inmates convicted of administrative felonies, so they were not put together with inmates convicted of violent crimes. The former public prison frequently had no running water or functioning sewage system and failed to provide the most basic health needs, and the DGSP no longer had any inmates there. The PNP still used it for short periods of time when they had a detainee under their responsibility, but transferred persons to Nueva Esperanza prison as soon as possible.

There were prisons of significant size in David and Santiago. Small jails attached to local police stations around the country sometimes housed prisoners for the entire length of their sentence. The authorities frequently did not address cases of abuse and neglect in these provincial jails, due to their low profile in the prison system. Early in the year, the Ombudsman visited La Chorrera prison in Panama province to highlight the extremely delapidated conditions there.

In December 25 prisoners in the Santiago prison in Veraguas province initiated a hunger strike to protest "physical and social mistreatment" by jail authorities, alleging that they did not provide medical care, damaged inmates' personal effects, and made family visits difficult. The penal authorities denied these claims and asserted that these prisoners were treated well, and often had relatives and friends bring in drugs and weapons. At year's end, the matter was under investigation.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were over 250 civilian corrections officers (or "custodians"), but due to insufficient funding, the DGSP was not able to hire new civilian custodians during the year. As a result, regular PNP officers still were used to fill staffing gaps. PNP officers were sometimes untrained for prison duty and found the assignment distasteful, which contributed to tension and abuses within the prison system. The Government sent 30 civilian custodians to a 4-month training program in Colombia. Custodians handled inmates within La Joya, El Renacer, and the central women's prison, which used only female guards. The DGSP did not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board could sanction a PNP agent or a custodian.

Throughout the country, conditions at women's prisons and at juvenile detention centers were noticeably better than at adult male prisons. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene.

There was one modern juvenile detention center near Panama City; however, several juvenile detention centers throughout the country suffered from inadequate resources to provide for education or adequate supervision of children, many of whom spent the majority of their time in a bare cell.

About 9 percent of prison inmates were foreigners (primarily Colombians), most of whom were serving sentences on drug charges. Although Panama and Colombia had a prisoner exchange treaty, the Government complained that Colombia did not

respond or was very slow to comply with requests to accept prisoners, reportedly due to overcrowded conditions in Colombian prisons.

The law and the Penal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence; however, this provision was not implemented consistently in practice. A conditional release program was part of the organizational reforms that authorities introduced in 1998. During the year, the DGSP provided conditional release forms to the President for her signature in a more timely manner than in previous years.

The Government generally allowed prison visits by independent human rights observers. However, the authorities arranged appointments ahead of time, and monitors generally spoke to prisoners in the presence of guards or administrators. Prisoners expressed fear of retaliation if they complained. Justicia y Paz, the Catholic Church's human rights monitoring group, brings prison abuses to the attention of the authorities.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respected this provision in practice. Exceptions were permitted when an officer apprehended a person during the commission of a crime, or when an individual interfered with an officer's actions. The Constitution also provides that suspects are to be brought promptly before a judge; however, lack of prompt arraignment remained a problem during the year. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel, to be provided to the indigent by the State (*see* Section 1.e.). Police arrested and detained children for minor infractions during neighborhood sweeps (*see* Section 5).

The Constitution also provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. Under the law, the preliminary investigation phase may last from 8 days to 2 months and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently granted extensions of time limits, leaving those accused in detention for long periods without having been charged formally. The law permits these extensions; however, many legal authorities (including court officials) criticized judges for excessive use of this measure.

Extended pretrial detention continued to be one of the most serious human rights problems, due in part to the elaborate notification phase in criminal cases. According to government statistics, as of December, 5,821 prisoners were pretrial detainees, or about 55 percent of the prison population. The average period of pretrial custody was 12 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common.

Legal alternatives to prison existed; however, they were not implemented widely. Options such as house arrest were used in some cases involving the elderly or minors but required that the defendants have access to and understanding of their legal options. There was a limited program of work or study in lieu of some sentences.

The Constitution prohibits exile; there were no reports of forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary was susceptible to corruption and outside influence, including manipulation by other branches of government.

The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly ratification. The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be made under a merit-based system, but the top-down appointment system lent itself to political influence and undue interference by higher-level judges in lower-level cases in which they often had no jurisdiction.

At the local level, mayors appoint administrative judges, or "corregidores," who exercise jurisdiction over minor civil cases and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. In the past this system had serious shortcomings: Defendants lacked adequate procedural safeguards; administrative judges outside of Panama City usually were not attorneys; many had not completed secondary education; and some were corrupt. In practice, appeal procedures were nonexistent. The authorities encouraged *corregidores* to improve their procedures, and the number of local sentences imposed declined from 3,000 to 500 over 3 years. Nonetheless, affluent defendants still tended to pay fines while poorer defendants went to jail, which contributed to prison overcrowding (*see* Section 1.c.).

In 1998 the Inter-American Development Bank loaned the Government \$18.9 million to reform the judicial system; the Government contributed another \$8.1 million to the program. Intended to improve judicial training, strengthen the investigative capabilities of the Attorney General's office, and reduce the civil courts' backlog of cases, the program was scheduled to continue through 2004.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused could be present with counsel during the investigative phase of the proceeding. Judges could order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials were conducted on the basis of evidence presented by the public prosecutor. Under limited circumstances, the law permits trials without the accused being present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant's election, but only in cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders were appointed late in the investigation, after the prosecutor already had evaluated the bulk of the evidence and decided either to recommend trial or to dismiss the charges. Public defenders' caseloads remained extremely high, averaging some 550 cases per attorney per year. Only 5 new public defenders have been hired since 1992; there were 38 nationwide, with a similar number of assistants. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial. The inadequate number of public defenders also caused a backlog in trial dates, which also contributed to the problem of prison overcrowding.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of the home, private papers, and telephonic communications, and the Government generally respected these rights in practice; however, there were complaints that in some cases law enforcement authorities failed to follow legal requirements and conducted unauthorized searches. In an effort to prevent unauthorized searches, the Public Ministry placed a representative, whose job was to approve searches, in each of the PTJ's divisions. The authorities may not enter private residences except with the owner's permission or by written order from the appropriate authority for specific purposes, such as entry to assist the victims of crime or disaster or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority and in the presence of the owner, a family member, or two neighbors.

Although the Constitution prohibits all wiretapping, the Government maintained that wiretapping with judicial approval was legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. The law allows the Public Ministry to engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." In November a controversy developed when it was reported that wiretapping took place under presidential authority for alleged national security reasons. The Supreme Court had not issued a final ruling on whether wiretapping was constitutional, but it remained an established practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the Government sometimes did not respect these rights in practice, and at times the media were subject to political and economic pressure. The Government and public figures made frequent use of libel and "disrespect for authority" laws to confront and attempt to intimidate journalists who allegedly were "irresponsible" or who besmirched the honor of a particular government institution or leader.

There was an active and often adversarial press and a broad range of print and electronic media outlets, including newspapers, radio and television broadcasts, and domestic and foreign cable stations. Five national daily newspapers, 4 commercial television stations, 2 educational television stations, and approximately 100 radio stations provided a broad choice of informational sources; all were privately or institutionally owned except for 1 government-owned television station. The law prohibits newspapers from holding radio and television concessions, and vice versa. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There was a concentration of control of television outlets in the hands of close rel-

atives and associates of former President Perez Balladares, who was a member of the largest opposition party.

Domestic and foreign journalists worked and traveled freely throughout the country. The law requires directors and deputy directors of media outlets to be citizens.

On January 22, a new "transparency law" took effect, providing for the public to obtain information from and about public entities. In June the President issued an executive decree, ostensibly codifying the law, but which severely limited it by imposing new and highly cumbersome regulations for those wishing to acquire public information. Several dozen requests were made under the new law, and most were not honored by the institutions; through October, 45 had been appealed to various courts but only 8 were approved. The Ombudsman and other groups asked that the decree be declared unconstitutional. The Solicitor General opined that it was unlawful and asked for a three-member bench of the Supreme Court to review it, which was underway at year's end.

Under "gag laws" dating from the military dictatorship, the Government has legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority had discretionary powers to administer the libel laws, which provided for fines and imprisonment for up to 2 years. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity were exempted specifically from libel prosecution; however, a section of the law allowed for the immediate sanctioning of journalists who showed "disrespect" for the office of certain government officials. A 1999 law eliminated gag laws; however, legal actions against many journalists remained pending, and vestiges of the former gag laws still provided a means for charging journalists with defamation. The IACHR, the Inter-American Press Association, Reporters Without Borders, and other groups criticized these measures as efforts to censor the press. The domestic media faced increased pressure during the year from elements in the Government for criticizing policies or officials. As of December, the Ombudsman reported 50 active cases of journalists facing defamation charges brought under the criminal justice system. In 40 completed cases, the courts sentenced journalists in 23 instances; the others were dismissed or the accused found not guilty.

The appeal of El Siglo newspaper editor Carlos Singares of his 1999 conviction for criminal libel and his sentence to 20 months in prison was pending at year's end. While Singares was in jail due to articles accusing Attorney General Jose Antonio Sossa of illicit activities, a court sentenced him to 20 months in prison for criminal libel against former President Perez Balladares. Singares was free during his appeal.

A court upheld the 2000 conviction of Jean Marcel Chery, a reporter for the daily newspaper Panama America, for criminal libel and confirmed the sentence of 18 months in jail and a fine of \$400.

In September 2001, the Moscoso Administration ordered the arrest of Ubaldo Davis and Joel Diaz, two editors of the weekly tabloid La Cascara, for libel and for impugning the honor of various administration officials, including the President. In July a court acquitted Diaz but found Davis guilty and sentenced him to 14 months in prison and a suspension from practicing his profession for 12 months. The judge allowed the prison sentence to be replaced by a \$1,500 fine, which Davis appealed, but an appellate court upheld the judge's decision.

In October 2001, a former vice president filed charges against editorial cartoonist Julio Briceno for lampooning him in the daily newspaper La Prensa. Briceno asked that the case be dismissed; during the year his request was denied, as was an appeal, and he could not leave the country pending trial.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against law professor and former Moscoso adviser Miguel Bernal for statements that criticized the PNP. In May 2001, Bernal appealed, which was denied in September 2001. Bernal then appealed the denial, and in May a judge dismissed the case. Human rights advocates called it a victory for press freedom.

The press laws provide for the establishment of a censorship board, which monitored radio transmissions and had the authority to fine stations that violated norms regarding vulgar, profane, or obscene language.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers; however, police commonly used tear gas against protesters.

There were several public demonstrations throughout the year, including a major public protest against corruption held in Panama City. Several times during the year, rural groups protested against the presence of Panama Canal authorities in the watershed and potential expansion of the canal. In August rioting broke out in Colon for 2 days, ostensibly to protest the persistently high unemployment there. Stores and street markets were shut down, and protesters reportedly damaged a few cars. The PNP fired rubber bullets not aimed directly at protesters, who responded with marbles.

The Constitution provides for the right of association, and the Government generally respected this right in practice. Citizens had the right to form associations and professional or civic groups. New political parties must meet strict membership and organizational standards to gain official recognition and participate in national campaigns.

c. Freedom of Religion.—The Constitution, although recognizing Catholicism as “the religion of the majority of Panamanians,” provides for free exercise of all religious beliefs, provided that “Christian morality and public order” are respected. The Government generally respected religious freedom in practice, and there was a broad diversity of religions.

The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. However, Catholicism enjoyed certain state-sanctioned advantages over other faiths. For example, the Constitution mandates that Catholicism be taught in public schools, although parents had the right to exempt their children from religious instruction.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respected them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remained in effect, although enforcement generally was lax.

The law provides for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A 1998 decree grants protection to all persons entering the country due to “state persecution based on race, gender, religion, nationality, social group, or political opinion.” The decree grants 2 months’ temporary protection to “displaced persons” in the case of a large influx. The U.N. High Commissioner for Refugees (UNHCR) criticized the decree because it put persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. In practice, the Government did not enforce the 2-month time limit. The Government has not forcibly repatriated displaced Colombians, and many Colombians have lived in the country for years without formal refugee status.

The 1998 decree contains provisions for first asylum, and there were 87 new asylum applications during the first 6 months of the year. During the year, the authorities granted refugee status to 47 Colombians, rejected 26 applications, and asked 10 applicants for more information. The Government generally cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. However, the Government generally was reluctant to classify displaced Colombians as refugees because of historic ties and the amount of movement between border communities. The UNHCR regularly visited the country to monitor and to aid displaced Colombians. The authorities refused entry to many Colombians who arrived by air and could not show that they had at least \$500.

Large groups of displaced persons periodically fled violence in Colombia by crossing the border into Panama. In 1999 approximately 800 Colombians fled violence in the Colombian town of Jurado and settled in the Darien town of Jaque. Since their arrival, the Government has cooperated with the Catholic Church and the UNHCR to provide these displaced persons with humanitarian assistance. It was difficult to estimate the number of displaced persons living temporarily in Darien because many entered and departed over short periods of time; others were in transit and hoped to go to other nations; and many did not report to any government office or NGO. There also were a number of citizens from countries such as Brazil, Ecuador, Peru, and African nations living there. Estimates of Colombians living in the Darien varied from 500 to 2,000; most placed the number around 1,500. According to the UNHCR, there were 763 Colombians under temporary protective status in the country.

The Government offered Colombians the chance to participate in a voluntary repatriation program in coordination with the Government of Colombia, and many

agreed to return. The Government, along with the UNHCR and the Catholic Church, provided displaced Colombians with food, medical care, and access to public services, including schools and clinics. The Government provided these services in Jaque and other areas of the Darien. However, many displaced Colombians living along the remote Darien border area were beyond the reach of organized assistance from the Government, the UNHCR, or the Church.

Colombian migration significantly increased pressures on local populations in the Darien and caused the displacement of Panamanian citizens. In addition, the Government suspected that Colombian migration concealed or attracted the presence of armed Colombian groups in the Darien region (*see* Sections 1.a and 1.b.). The effects of Colombian migration also were evident in Panama City and Colon, where large populations of Colombians have settled. Late in the year, the new Minister of government and Justice ordered a census of Colombians living in the country.

There were no reports of the forced return of persons to a country where they feared persecution; however, throughout the year, there were unconfirmed reports that the police along the border, on a case-by-case basis, required Colombians to return to Colombia.

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

The Constitution provides citizens with the right to change their government, and citizens freely exercised this right in the 1999 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. Naturalized citizens may not hold certain categories of elective office. The independent Electoral Tribunal arranges and supervises elections. While the Constitution provides for independent legislative and judicial branches, the executive dominated in practice. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

In May 1999, Arnulfista presidential candidate Mireya Moscoso defeated Democratic Revolutionary Party (PRD) candidate Martin Torrijos and Christian Democratic Party candidate Alberto Vallarino, winning 44.8 percent of the popular vote. Domestic and international observers characterized the elections as generally free and fair; however, several local contests were marred by reports of vote buying. Until September 2000, President Moscoso maintained a one-vote majority in the Legislative Assembly, which she lost when the party's coalition realigned. In September Moscoso's party regained control of the Assembly through an ad hoc coalition that included renegade opposition party legislators.

In October there was a possible theft of citizen identity cards, which could be used to commit electoral fraud. The electoral tribunal took a series of measure to restore citizen confidence and to issue new, more secure, identity cards. It also turned to the international community to request assistance to monitor the election process and to restore the integrity of the electoral system.

Several members of the main opposition PRD party alleged that there was undue presidential influence over the judiciary and the electoral tribunal, which heard a case of expulsion against one of the renegade PRD legislators as the Assembly leadership was being selected. PRD officials also asserted that appointments to the Supreme Court were made to lay the groundwork for potential electoral fraud in 2004.

There were no legal barriers to participation in government or politics by women, members of minorities, or persons of indigenous descent, and women's participation increased in the past several years. Mireya Moscoso was the country's first female president. Women held 7 of 71 Legislative Assembly seats; a woman served as the Assembly's first vice president in 1999–2000, another woman held this position for the 2000–2001 legislative period, and a third woman was elected for the 2001–02 period. Three women held positions in the 13-member Cabinet, 1 female judge remained on the Supreme Court, and a woman was the director of the Public Registry.

The Government provided semiautonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Embera Wounaan, Kuna de Madugandi, and Kuna de Wargandi comarcas (reserves). There were dedicated seats for two Kuna Yala legislators in the Legislative Assembly, and three will be added for the Ngobe-Bugle comarca in the 2004 elections. Neither the Madugandi nor the Embera-Wounaan reserve had its own dedicated legislators, but each had a separate governor. In addition to the two Kuna Yala seats, legislators who were Ngobe-Bugle and Embera represented other districts in the Assembly.

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

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations.

The office of Human Rights Ombudsman received complaints from citizens regarding abuses or violations committed by public servants or government institutions, collected information, confronted accused public institutions or employees, and conducted studies to promote international human rights standards. Although the Ombudsman had no coercive authority beyond moral suasion, he could confront public institutions and employees with their misdeeds. In March 2001, the Legislative Assembly elected attorney Juan Antonio Tejada Espino as Ombudsman for a 5-year term.

For the 12 months ending in March, the Ombudsman's Office received 798 complaints against the Government. Of this number, 765 were against public institutions, and 33 were against businesses operating under a government concession. During the year, the Ombudsman acted as a mediator between the Government and medical associations in a 15-day medical strike; highlighted dangerous conditions in Chorrera and other prisons; encouraged the President's office to publish all its official expenses (salaries, trips, etc.); published a report on the Truth Commission and persons who disappeared; and assisted in two cases of citizens held abroad.

On April 18, the Truth Commission presented its final report to President Moscoso and Attorney General Sossa (see Sections 1.a. and 1.b.). The Commission collected eyewitness testimonials, domestic and foreign government documents, and anonymous information and received support from foreign forensic anthropologists to aid in its investigations. Ultimately, the commission investigated 110 cases, concluding that 70 persons were murdered, while 40 were still missing. One-half the cases were from 1969–72, 20 percent related to 1973–83, and 28 percent were from 1984–89. Eleven of the 1984–89 victims were murdered during the October 1989 attempted coup.

Although the official mandate of the Commission ended with its report, an office with a scaled-down staff continued to operate, awaiting DNA test results and excavating identified sites that were not completed during the Commission's 15-month mandate. This office continued to press the Public Ministry to open or reopen cases based on findings in its report. Additionally, and with COFADEPA (Committee of the Relatives of Panama's Disappeared) support, the Commission called upon the Government to create a public memorial and an official holiday in honor of the victims, to compensate victims' families, to bring human rights violators to justice, and to teach children about human rights violations in school. Although the Foreign Minister said that the Government should compensate victims' families, it took no action in response to these recommendations by year's end.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, or political views. However, societal prejudices persisted. Cases of discrimination were difficult to prove, and legal remedies for victims were complicated, time-consuming, and costly. There were unconfirmed reports of violence perpetrated against homosexual men.

Women.—Domestic violence against women continued to be a serious problem. The 1995 Family Code criminalized family violence (including psychological, physical, or sexual abuse), but convictions were rare unless a death occurred. In September 2001, the code was revised to strengthen the penalties for domestic violence and to include penalties for domestic sexual assault. The PTJ registered 1,801 cases of domestic violence during the year, compared with 673 during 2001. As of November, the PTJ also received 506 cases of rape and 99 cases of attempted rape during the year, compared with 395 cases of rape and 82 cases of attempted rape in all of 2001. The Center for Women's Development estimated that victims reported as few as 20 percent of sexual assaults to judicial or law enforcement authorities. Spouses or other family members frequently were the perpetrators. The Foundation for the Promotion of the Woman, among other women's advocacy groups and government agencies, operated programs to assist victims of abuse and to educate women on their legal rights.

Trafficking in women was a problem (see Section 6.f.).

The Labor Code prohibits sexual harassment; however, it remained a problem. Anecdotal evidence suggested that many women were propositioned for sexual favors at the time of their initial job interview.

The 1995 Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively. According to a Supreme Court justice, 80 family judges were required to handle this caseload; however, only 20 had been appointed due to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women were on average 30 to 35 percent lower and increased at a slower rate. There were credible reports of irregular hiring practices based upon age and "appearance." A 1998 law prohibits discrimination on the basis of sex.

The Ministry of Women, Youth, Family, and Childhood was largely a consolidation of departments previously operating in other government ministries, and its activities did not attract a great deal of public attention. Through the National Directorate of Women and the Center for Gender Training, the Ministry promoted equality of women in the workplace and equal pay for equal work, attempted to reduce sexual harassment, and advocated legal reforms. A number of private women's rights groups concentrated on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

Children.—Minors (under 18 years of age) represented 37 percent of the population. Education is compulsory through the equivalent of 9th grade, but children did not always attend school due to traditional attitudes, financial considerations of the family, lack of transportation, and insufficient government resources to enforce the requirement. The problem was most extreme in Darien Province and among indigenous groups. The Government furnished basic health care for children through local clinics run by the Ministry of Health, but clinics were difficult to reach from rural areas and often lacked medicine. A central children's hospital in Panama City operated with government funds as well as private donations.

The Ministry of Women, Youth, Family, and Childhood concentrated on child welfare problems such as children begging in the streets and roaming cities at night, infant and child malnutrition, and juvenile delinquency and gangs. The Ministry also sponsored a youth conference that attracted several thousand participants. A U.N. Development Program report showed that despite a relatively high proportion of public spending devoted to social programs, poor results on human development indicators suggested that the funds were not used efficiently.

The Superior Tribunal for Minors and Superior Tribunal for Families are judicial authorities charged with overseeing the protection and care of minors. The Minister of Women, Youth, Family, and Childhood acted much like an ombudsman, and the office proposed and reviewed laws and monitored government performance. Through November the PTJ registered 224 cases of child abuse, compared with 102 through September 2001. Neglect of children was a problem. Malnutrition and inadequate medical care were generalized problems, most severe among rural indigenous groups. Child labor and trafficking in children were problems (*see* Sections 6.d. and 6.f.).

Inadequate resources and training available to the family courts resulted in several controversial decisions, including one highly publicized case in which a child was returned to an abusive situation.

Juvenile courts continued to report a high incidence of juvenile delinquency in major urban areas. The authorities reported a continued increase in such crimes as drug trafficking, armed robberies, kidnappings, car thefts, and murders attributed to juveniles. Youth participation in criminal gangs was an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

Persons with Disabilities.—The Ministry of Education was responsible for educating and training minors with disabilities, while the Ministry of Women, Youth, Family, and Childhood protected the rights of adults with disabilities. Children with disabilities traditionally were separated from the general population; however, a 2000 law required schools to integrate children with special needs into the student body, and this law generally was enforced.

The Department of Labor was responsible for placing workers with disabilities in suitable jobs. Placement remained difficult despite a 1993 executive order granting tax incentives to firms that hire disabled employees. Persons with disabilities also tended to be paid less than employees without disabilities for performing the same job.

Panama City's building code requires that all new construction projects be accessible to persons with disabilities, with fines from \$100 to \$500 for noncompliance. A national law with similar requirements for new construction projects generally was enforced. Awareness of disability issues has increased, and commercial establishments increasingly provided and enforced handicapped parking spaces. However,

basic services such as handicapped-accessible sidewalks and bathrooms were largely unavailable.

Indigenous Persons.—The Constitution protects the ethnic identity and native languages of indigenous people and requires the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people numbered approximately 229,000 (8 percent of the population) and had the same political and legal rights as other citizens. The Government has passed legislation setting aside indigenous reserves for five of the country's seven native groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. Tribal chiefs governed each reserve; they met in a general congress at regular intervals. The much smaller Bri-Bri (1,500 members) and Naso (2,800 members) tribes did not have enclaves; they resided near the border with Costa Rica. The Ministry of government and Justice in Panama City maintained an Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups were allowed considerable local autonomy. For example, the Government recognized traditional indigenous marriage rites as the equivalent of a civil ceremony. Laws protect intellectual property rights of indigenous artwork and set up regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. The poverty rate among the entire indigenous population was estimated between 85 and 96 percent, depending on the group. Discrimination against indigenous people, although generally not overt, was widespread.

In July a 13-year-old indigenous Wounaan girl was shot and killed, apparently by accident, in a PNP compound (*see* Section 1.a.). Some indigenous leaders in Darien Province asked the PNP not to locate police compounds so close to or directly in a comarca and claimed that the PNP presence interfered with their culture and daily activities. The PNP stated that the police needed to be there precisely to protect the area from attacks from neighboring Colombia, and other indigenous groups asked the PNP to stay where they were.

Although their population suffers from poverty and malnutrition, Kuna leaders have succeeded in enforcing their territorial boundaries and maintaining their cultural integrity. A 190-acre Kuna Wargandi reserve was created in 2000. There were two Kuna legislators (*see* Section 3). Other indigenous groups had not succeeded in using their autonomy to preserve their culture or develop economic independence. Most lived in extreme poverty and isolation. Illiteracy among indigenous groups was almost 50 percent, compared with 10 percent among the population as a whole.

Since indigenous populations infrequently mastered Spanish and were unfamiliar with the legal system, they often misunderstood their rights and failed to employ legal channels when threatened. The problem was exacerbated by government inattention to indigenous problems. For example, many Embera-Wounaan in the Darien were forced out of their reserves due to encroachment by settlers, loggers, and Colombian immigrants. The Ngobe also were under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. Indigenous workers consistently did not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Indigenous laborers in the country's sugar, coffee, and banana plantations worked under worse conditions than their nonindigenous counterparts. Indigenous migrant workers were unlikely to be provided with housing or food, and their children were much more likely to work long hours of heavy farm labor than nonindigenous children (*see* Section 6.d.).

National/Racial/Ethnic Minorities.—The country is racially diverse, and minority groups generally have been integrated into mainstream society with overall success. However, discrimination against the country's newer immigrants, especially Chinese, often was overt. There were an estimated 150,000 to 200,000 persons of Chinese descent or admixture. Cultural differences and language difficulties hindered and possibly prevented many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resented Chinese immigrants. Racial slurs directed at Asians were used openly among the general population, and substantial numbers of first generation resident Chinese frequently were treated as second-class citizens. However, second and third generation Chinese were seen as distinct from recent immigrants and generally were accepted in society.

Middle Eastern and Indian residents, like the Chinese, also suffered from racially motivated discriminatory treatment. All three groups operated much of the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, were accorded fewer legal protections than were citizens for their trade ac-

tivities. A constitutional provision reserving retail trade for Panamanian citizens was not enforced in practice; however, immigrants legally could not own their businesses and sometimes encountered bureaucratic difficulties in practicing their professions.

Racism against blacks occurred, although it generally was expressed in more subtle terms. Afro-Panamanians made up about 14 percent of the population; mixed black and mestizo accounted for about 40 percent; however, blacks were conspicuously absent from positions of political and economic power. Antillean blacks, often identifiable by dress and speech pattern, were a particular target for racial slurs and poor treatment by citizens and by Spanish-speaking blacks. Their geographic clustering in the economically depressed province of Colon and poorer neighborhoods of Panama City heightened their isolation from mainstream society. Black canal workers traditionally commanded significantly greater financial resources compared with blacks elsewhere in society, but many retired or emigrated, and there was some anecdotal evidence that the rest were being replaced by white personnel. Mainstream political elites generally were unconcerned by the economic and social problems of black populations and a concomitant rise in drug use, crime, and gang violence. The country's white elite successfully marginalized citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector. The predominately Afro-Panamanian city of Colon, on the Caribbean coast and the country's second largest city, suffered from a conspicuous lack of government services.

Racial discrimination against all ethnic groups was evident in the workplace. In general, light-skinned persons were represented disproportionately in management positions and jobs that required dealing with the public (such as bank tellers and receptionists).

Section 6. Worker Rights

a. The Right of Association.—Private sector workers had the right to form and join unions of their choice, subject to the union's registration by the Government. A 1995 labor code reform established the minimum size of unions at 40 workers and streamlined the accreditation and registration process for unions by providing that if the Government does not respond to an application within 15 days, the union automatically gains recognition with all rights and privileges under the law. Employees of small companies may organize under a larger umbrella group of employees with similar skills and form a union as long as they number at least 40. The International Labor Organization (ILO) repeatedly criticized this 40-person limit and asked the Government to change it, with no response. The reformed code also allowed labor leaders to keep their union positions if fired from their jobs.

In February 2001, the Inter-American Court of Human Rights ruled that the firing in 1990 of 270 public sector electricity and telecommunications workers, which the Government justified based upon "public good" provisions in the law and the Constitution, was not legal and proper. The Court gave the Government until June 30, 2003, to present a report to justify its decision and recommended that the workers be compensated, and that the Government also pay a fine. At year's end, the Labor Ministry was preparing a response to the Court's decision.

Approximately 10 percent of the total employed labor force was organized. There were 341 active unions, grouped under 39 federations and 10 confederations representing approximately 130,000 members in the private sector. Neither the Government nor political parties outwardly controlled or financed unions; however, the Government and political parties exercised political, ideological, or financial influence over some unions. The labor sector traditionally supported the PRD.

The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides a small core of civil servants with the right to strike, bargain collectively, and evade summary dismissal, except for those in areas vital to public welfare and security, such as the police and health workers. However, the law has proven insufficient to protect the country's 150,000 government workers, because only a small percentage were career members of the administrative civil service and therefore enjoyed job security. While the right to strike applied to some of the 10,000 career members, it did not apply to the approximately 140,000 other government workers. Public workers formed a union, but it had very limited rights and could not strike or bargain collectively. The ILO's Committee of Experts has observed for some years that the prohibition of public servants' associations is inconsistent with the country's obligations under ILO Convention 87.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 9,000 employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety.

Union organizations at every level may and do affiliate with international bodies.

b. The Right to Organize and Bargain Collectively.—The Labor Code provides most workers, including all private sector workers, with the right to organize and bargain collectively, and unions exercised it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor had mechanisms to resolve such complaints. The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike; however, 140,000 government workers did not have the right to bargain collectively or to strike. The 1994 Civil Service Act requires that at least 50 percent of the workforce continue to work in order to provide minimum service. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration.

In 1999 the Supreme Court ruled that an article of the Labor Code that obligated private sector strikers to submit to binding arbitration after a given period was unconstitutional. There were some strikes and protests during the year, especially in the banana and construction industries. None of the strikes led to widespread violence.

Employers commonly hired temporary workers to circumvent labor code requirements for permanent workers. Temporary workers were excluded from social security benefits, job security, and vacation time. In lower-skilled service jobs, employers often had some employees under “3-month contracts” for years, sometimes sent such employees home for a month, and then rehired them. Employers also circumvented the law requiring a 2-week notice for discharges by laying off some employees 1 day before the 3-month time period expired, or 1 week before a holiday. In addition, due to labor laws that made it difficult to fire employees of 2 years or more, it was not uncommon to hire workers for 1 year and 11 months and then to lay them off.

Labor law requires companies to submit copies of all labor contracts for permanent workers to the Labor Ministry for review to ensure compliance and requires the Labor Ministry to conduct periodic inspections of the work force. The Labor Ministry may levy fines against companies not in compliance with the law. However, these measures proved ineffective in practice. According to union sources, the practice of “blank” contracts that did not specify starting dates, in order that the employer could avoid longevity issues, was becoming more widespread.

Over the past 6 years, the Government issued cabinet decrees that precluded effective organization of unions in export processing zones (EPZs), including by restricting strikes and permitting negotiations with workers who are represented by a union. Unions asserted that this latter practice resulted in negotiations with employee groups that were dominated by employers. There were no collective bargaining contracts in the EPZs. The law requires mandatory arbitration of disputes, and it allows for the participation of an unrepresentative worker delegate in the tripartite (government, labor, and industry) arbitration commission. A strike is considered legal only after 36 workdays of conciliation were exhausted; otherwise, striking workers could be fined or fired. A 1998 ILO ruling noted that this regulation did not mention arbitration or specify procedures to resolve disputes in the courts and called on the Government to amend the EPZ labor regulations to conform with international norms; however, the Government did not make any changes in response to the ruling. Minimum wage provisions did not apply in the EPZs.

c. Prohibition of Forced or Bonded Labor.—The Labor Code prohibits forced or bonded labor by adults and children; however, trafficking in women and children was a problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code prohibits the employment of children under 14 years of age with some exceptions, and also prohibits the employment of children under age 15 if the child has not completed primary school. However, a 2000 government report estimated that 27,000 children between the ages of 12 and 14 work. Children under age 16 legally cannot work overtime, and those under age 18 cannot work at night. Children between the ages of 12 and 15 may perform light farm or domestic work, with the authorization of the Labor Ministry, as long as it does not interfere with their schooling. Many children reportedly worked on rural coffee and sugar plantations, as well as in the informal sector of the economy. The Labor Code provides that children between the ages of 14 and 16 may work 6-hour shifts per day that do not exceed 36 hours a week. The Labor Code includes a prohibition on employment of minors under the age of 18 in hazardous labor. The Ministry of Labor enforced these

provisions in response to complaints and could order the termination of unauthorized employment. The Government acknowledged that it was unable to enforce some child labor provisions in rural areas, and it conducted only limited inspections, due to insufficient staff.

Child labor violations occurred most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, and tomatoes. Farm owners usually paid according to the amount harvested, leading many laborers to bring their young children to the fields to help with the work. In many small rural communities, the entire able-bodied population participated in the harvest, and parents were not willing to leave their children behind unattended. Many children also were involved extensively in subsistence agriculture producing coffee and sugar; they worked with their families or were employed by independent plantations.

The problem of child labor in agricultural areas appeared to fall most heavily on indigenous families, who often were forced to migrate out of their isolated reserves in search of paid work (*see* Section 5). These frequent migrations not only interrupted schooling but also left the family vulnerable to sometimes unscrupulous contractors. The Government claimed that due to insufficient staff, it was unable to enforce child labor provisions in rural areas such as in the coffee and banana plantations near the border with Costa Rica, where government resources were especially scarce and children faced difficult conditions (*see* Section 6.e.).

Urban supermarkets used an estimated 1,500 children who bagged groceries for tips. Some of the children were as young as age 9, and many of them worked late hours, in violation of the Labor Code. Some supermarket managers claimed that the children actually were not employed by their firm, despite the fact that "baggers" conformed to schedules, wore uniforms, complied with company codes of conduct, and took orders from managers as if they were direct employees. The Government failed to act to reduce the general problem of urban child labor and did not challenge the larger supermarket chains where large numbers of children worked. Urban child labor problems also included children working as street vendors or performers, washing cars, and running errands for businesses or local criminal groups.

e. Acceptable Conditions of Work.—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranged from \$0.80 per hour to \$1.50 per hour, depending on the region and sector. This wage was not sufficient to provide a decent standard of living for a worker and family. The Government last raised the base minimum wage in 2000 by approximately 13 percent. With inflation below 3 percent per year and despite strenuous private sector objections, the Government undertook a legally required review of the minimum wage in August but had not altered it by year's end. Most workers formally employed in urban areas earned the minimum wage or more; however, about one-third of the population worked in the large informal sector and earned far below the minimum wage. This was particularly the case in most rural areas, where unskilled laborers earned \$3 to \$6 per day, without benefits; the Government did not enforce labor laws in most rural areas. Public sector workers did not fall under the Labor Code and did not always receive the minimum wage. The minimum wage did not apply in the EPZs (*see* Section 6.b.).

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

The Ministry of Labor is responsible for enforcing health and safety standards and generally did so. The standards are fairly broad and generally emphasize safety over long-term health hazards. Inspectors from both the Labor Ministry and the occupational health section in the Social Security Administration conducted periodic inspections of hazardous employment sites and responded to complaints; however, the Government failed adequately to enforce health and safety standards. Construction workers and their employers were notoriously lax about conforming to basic safety measures. In rural areas, the most severe lack of oversight in basic safety measures occurred in the banana industry, where poisoning by chemical agents was a recurrent problem. Workers complained of sterility and of adverse skin conditions as a result of exposure to the chemicals. In several plantations, indigenous workers were not provided with shelters, sanitary or cooking facilities, or fresh water; they also did not have machetes or gloves for their work. Complaints of health problems also continued in the cement and milling industries.

The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally were not allowed to do so if the threat was not immediate but may request a health and safety inspection to determine the extent and nature of the hazard.

f. Trafficking in Persons.—The Penal Code prohibits trafficking in women and children; however, trafficking remained a problem. The Penal Code provides for prison sentences of 2 to 4 years for the promotion or facilitation of the entry to or exit from the country of a person for the purposes of prostitution. In some circumstances, the penalty is increased to 6 years. Minor corruption, legal technicalities, and lack of resources contributed to the Government's inability to combat the problem fully. Traffickers occasionally bribed or evaded local law enforcement officials. Prostitution is not illegal; most prostitutes came with that explicit intention. During the year, police and immigration officials occasionally conducted raids on houses of prostitution.

The country was a destination for women and girls trafficked for sexual purposes from Colombia and the Dominican Republic. Trafficking in women and girls for sexual purposes occurred within the country, but the extent of the practice was unknown.

According to a report by the NGO International Human Rights Law Institute, trafficking assumed a cover of legality under a visa program for "alternadoras" (escorts) managed by the Directorate of Migration and the Ministry of Labor. In 2000 more than 700 women from Colombia were granted such visas for temporary work, stating the club or massage parlor where they intended to work, so most came with the explicit intention of prostitution rather than being deceived with promises of other employment. During the year, only about 40–50 alternadora visas were granted.

The country was primarily a transit point for aliens seeking to reach the United States, some of whom were trafficked into indentured servitude. The majority of the estimated 30,000 aliens transiting Panama originated in Ecuador and Peru, but a significant and increasing number came from India and China. Their travel was facilitated by a network of alien smugglers, travel agents, hotels, and safe houses. Prosecutions were rare, but one person was convicted for alien smuggling during the year. Anecdotal evidence indicated that illegal aliens transiting through the country were subject to frequent hardship. They commonly were deprived of adequate food and shelter. Chinese aliens particularly were vulnerable to poor treatment, and ultimately those trafficked for the purpose of forced labor were coerced into working off their debt, which could be as high as \$30,000, as indentured servants. The Government did not conduct educational campaigns to warn of the dangers of trafficking, and there were no programs to aid victims.

PARAGUAY

Paraguay is a constitutional republic with three branches of government. The President is the Head of government and Head of State; he cannot succeed himself. Colorado Party Senator Luis Gonzalez Macchi assumed the presidency in March 1999; in August 2000, voters elected Julio Cesar Franco of the Liberal Party to be Vice President. The bicameral Congress is made up of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party, the dominant political party, holds a plurality in both houses of Congress. The Constitution provides for an independent judiciary; however, the courts remained inefficient and subject to corruption and political pressure, although the Supreme Court continued to undertake judicial reforms to root out undue influence and corruption.

The military generally no longer plays an overt role in politics; however, members of two army units and a group of National Police officers participated in an attempted coup in 2000. The National Police has responsibility for maintaining internal security and public order and reports to the Ministry of the Interior. The civilian authorities generally maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

The country has a market economy with a large state presence and a large informal sector. The population is approximately 5.8 million. In 2001 the per capita gross domestic product (GDP) of \$1,510 was lower in real terms than it was 10 years earlier, and the Central Bank projected negative 2.5 percent growth for 2002. An estimated 32 percent of the population was employed in agriculture, which provided 30 percent of the GDP and more than 90 percent of export earnings. The informal economy, estimated to equal the value of the formal sector, also has shrunk considerably in recent years.

The Government generally respected the human rights of its citizens in most areas; however, there were serious problems in some areas. There were killings by the police and military. Incidents of torture and abuse of convicted prisoners and other detainees continued, including an unresolved case of abduction and torture of two kidnaping suspects, allegedly directed by government agents. The human rights

ombudsman prosecuted cases of human rights abuses committed during the 1954–89 Stroessner regime. Conditions in prisons throughout the country were substandard, marked by overcrowding and poor safety and control of inmates. Treatment of conscripts improved. Other problems included arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights. The Government's Inter-Institutional Commission on Human Rights took steps to reduce illegal military conscription; however, recruitment and conscription of underage minors continued. Police used force against nonviolent demonstrators. Violence and discrimination against women, abuse of children, and discrimination against persons with disabilities and indigenous people were problems. Worker rights were not protected adequately, and child labor existed. Paraguay was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—The police and military were responsible for some killings involving the use of unwarranted or excessive force. There were reports of police officers killing persons while acting outside the scope of their duties, of deaths in custody, and of the killing of a military conscript.

Officers Nelson Mora Leguizamon, Sinecio Camacho, and Edgar Herrera Caballero were charged in the May shooting death of taxi driver Carlos Villagra Lovera in Asuncion.

In June demonstrator Calixto Cabral was shot and killed in Caacupe when National Police officers attempted to stop him and others opposed to the privatization of a telephone utility from marching to Asuncion. An investigation continued at year's end.

In September Tacumbu Prison inmate Gustavo Ramon Portillo allegedly killed fellow inmate Luis Alberto Martinez during an argument in the prison.

In October police officers Edison Torres, Roque "Rambo" Fretes, and Rodolfo Fernandez were arrested in connection with the October shooting death of Cinthia Fretes. Witnesses reportedly said that the officers fired upon a vehicle in which several people, including Cinthia Fretes, were riding. The investigation was pending at year's end.

In November police in Ciudad del Este charged police officer Adan Ramirez Olazar with the November shooting death of Roberto Carlos Paniagua Jara. Ramirez Olazar reportedly shot Paniagua while he was trying to mediate a dispute between the police officer and a third man. The trial was pending at year's end.

In November underage military conscript Luis Fernando Bobadilla Acuna died of a gunshot wound while on duty. Military authorities determined preliminarily that the death was accidental, but family members contended that he was murdered. An investigation continued at year's end (*see* Section 1.f.).

Off-duty police officers Juan Carlos Ocholasky, Reinaldo Dario Nunez Rojas, and Richard Jimenez Perez were convicted in the September 2001 murder of Jose Vera, whom they kidnaped in Asuncion and tortured before shooting him to death.

In April prosecutors recommended that nine police officers implicated in the November 2001 shooting death of Miguel Casco Valdovinos each be sentenced to 25 years in prison. Casco Valdovinos died in Curuguaty while in police custody.

In August the nongovernmental organization (NGO) Human Rights Watch (HRW) asked the Government to investigate deaths among military recruits in the armed forces. HRW indicated that it had received information that 111 recruits had died while in service since 1989, the majority of whom were under 18 years of age, and noted that most of the investigations of these deaths had not been resolved (*see* Section 1.f.).

In September police officer Pedro Recalde Aguilar was sentenced to 22 years in jail for killing two men in 1998.

In September lawyers from the NGO Committee of Churches petitioned the Foreign Ministry to continue prosecuting a motion to extradite Alfredo Stroessner from Brazil to stand trial for a murder committed in 1987. A December 2001 petition to extradite Stroessner for the 1976 killings of Rodolfo and Benjamin Ramirez remained pending at year's end.

No information was available on investigations in the case of a 14-year-old inmate at the Neuropsychiatric Hospital in Asuncion who died in 2000 (*see* Section 5).

In the continuing investigation of the 1999 death of Jose "Coco" Villar, whom police officers allegedly shot and killed, a judge ordered a new forensic examination

after an investigation proved that an earlier examination was falsified. The investigation was underway at year's end.

At year's end, prosecutors still were investigating the 2000 death of a juvenile military recruit, Pedro Centurion.

In the case of the 1999 killing of Vice President Luis Maria Argana and seven antigovernment protesters (*see* Section 1.d.), sanctions against three of the four alleged ringleaders were discontinued. Former army commander Lino Oviedo faced charges in connection with these killings; at year's end, Oviedo remained in Brazil (*see* Section 1.d.).

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture as well as cruel, inhuman, or degrading punishment or treatment; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. The Paraguay Human Rights Coordinating Board (CODEHUPY)—a group of 32 NGOs, civic organizations, and trade unions—reported several cases of police torture and other abusive treatment of persons, including women and children, designed to extract confessions, punish escape attempts, or intimidate detainees. The Attorney General's office and the NGO Committee of Churches compiled numerous examples of police abuse.

In January law enforcement agents from the Attorney General's office allegedly kidnaped leftist political figures Juan Arrom and Asuncion Marti, tortured them, and threatened their lives. Arrom and Marti, suspects in the kidnaping of Maria Bordon de Debernardi, allegedly were held for 2 weeks and freed by family members who said they were tipped off by neighbors and police. Interior Minister Julio Cesar Fanego, Justice and Labor Minister Silvio Ferreira, Police Chief Blas Chamorro, and Investigations Chief Roberto Gonzalez Cuquejo all resigned shortly after the Arrom/Marti incident. Two police officers were arrested and then released, and another continued under investigation. Arrom and Marti alleged that Fanego and Ferreira knew that they were being held against their will but did nothing. No charges were filed against the former ministers. The Government's national intelligence service was disbanded because of information compiled during the investigation of the Arrom and Marti kidnaping. The Government complied with the Inter-American Commission on Human Rights' (IACHR) request for information on the case. In December prosecutors filed kidnaping charges against Arrom and Marti; at year's end, they remained free on bail pending trial.

In January lawyers for the country's Human Rights Commission alleged that police officers tortured Victor Colman and Jorge Samudio, later charged in the Debernardi kidnaping, after arresting the two men. The Interior Ministry denied that its officers had tortured the men, acknowledging only that they suffered bruises while being arrested.

In May five military recruits claimed they were tortured while in service at the First Cavalry Regiment in Pozo Colorado. Hugo Espinola, Mario Guerrero Gonzalez, Hugo Omar Rojas Gimenez, Jose Asuncion Aguero, and Mario Gamarra alleged that their superiors in the regiment physically, sexually, and psychologically mistreated them. Four of the men escaped the Pozo Colorado barracks and reached help after walking 12 miles through the night; the fifth was recaptured by the military. Authorities had not resolved the case by year's end.

In May 2000, several persons arrested during the state of exception following the abortive 2000 coup reported being tortured during their detention (*see* Sections 1.d. and 3). Some of these persons reported that former Interior Minister (and current legislator) Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. Press reports also connected Bower to the torture of eight peasants in Concepcion in 2000; police reportedly beat them in Bower's presence after they were arrested for illegally cutting down trees. In August 2001, prosecutors charged Bower with torture and other crimes for his actions following the abortive coup. In December Saul Leonardo Franco filed a complaint alleging that Bower and three police officers tortured him following the failed coup attempt. Criminal actions against Bower remained pending at year's end; however, there were no significant developments during the year. In October commentators alleged that courts were delaying consideration of the case.

Police used force to disperse protesters on several occasions, sometimes killing or seriously injuring civilians (*see* Sections 1.a. and 2.b.).

Hundreds of cases of torture and abuses remained pending from the 1954–89 Stroessner regime. Under the Constitution, the Defensor del Pueblo (Human Rights Ombudsman) prosecutes cases seeking monetary compensation for human rights abuses committed during the Stroessner regime. Since his appointment in November 2001, the ombudsman has ruled that 35 persons were entitled to compensation

for torture, imprisonment, and other human rights violations suffered during the Stroessner regime. More than 140 cases have been filed. In June the Government gave the Ombudsman an additional 36 months to adjudicate these cases.

The Ombudsman maintains documents related to abuses committed during the Stroessner regime in an "Archives of Terror" that are available for research by academics and the general public. During the investigation of the Arrom/Marti abduction, authorities discovered additional documents that were added to the Archives.

In April a review tribunal found that Captain Napoleon Ortigoza had been detained unjustly for 25 years during the Stroessner dictatorship and awarded him \$1 million (7 billion guaranies) in compensation. In September Nemesio Barreto Monzon filed a formal charge with the Attorney General's office alleging that Stroessner, former Interior Minister Sabino Montanaro, and other officials tortured him in 1974 because of his political affiliation; the case was pending at year's end.

In April a trial judge issued a detention order against Stroessner and his Interior Minister Sabino Montanaro in the 1987 torture and death of Celestine Perez de Almada. While the order showed continued interest in following up on wrongs from that regime, it had little practical effect since Stroessner and Montanaro have lived in Brazil and Honduras, respectively, since 1989. In September the Supreme Court denied Ramon Duarte Vera's habeas corpus seeking to be freed from prison pending his appeal of his conviction for torture and attempted murder in 1959, during the Stroessner regime.

Prison facilities were deficient, and prison conditions were extremely poor. Overcrowding, unsanitary living conditions, and mistreatment were the most serious problems affecting all prisoners. Tacumbu Prison—the largest in Asuncion—was built to hold 800 inmates but housed more than 2,100, two-thirds of whom were awaiting trial. In October the Office of Penal Institutions noted that more than 100 inmates in the Tacumbu Prison suffered from serious illness: 8 suffered from HIV, 70 from syphilis, 32 from tuberculosis, and 47 from mental diseases. Other regional prisons generally held approximately three times more inmates than originally planned. UNICEF reported that conditions were substandard in other facilities around the country, especially in the Coronel Oviedo prison, where more than 500 inmates were confined in a facility built for 100.

Security was a problem throughout the prison system. For example, there were approximately 120 guards for more than 2,100 prisoners at Tacumbu Prison. In July inmates held two guards prisoner for several hours until Justice and Labor Minister Diego Abente negotiated an end to the siege. Inmates frequently had weapons, particularly at Emboscada in Minas. During prison searches in March, guards found drugs and knives in inmates' possession in Tacumbu and in Abraham Cue in San Juan Bautista. During a July riot in Emboscada, two inmates were killed, one by gunshots from prison guards. In August inmates in the Emboscada and Itagua facilities killed two fellow juvenile inmates. In April inmate Ruben Insfran hanged himself in the Tacumbu facility.

Escapes were frequent; for example, in September Vicente Urdina Chamorro, convicted of domestic violence, escaped from Tacumbu. The press also reported numerous escapes and attempted escapes from the Itagua facility. In February authorities thwarted a major escape attempt from the maximum-security facility in Emboscada when the murder of inmate Leonardo Meza prompted a surprise inspection.

At the Asuncion women's prison, Buen Pastor, there were several reported rapes of prisoners by their guards, although laws governing prisons forbid male guards in the women's prisons. In August inmates in Buen Pastor rioted after the prison warden was replaced following reports of narcotics use among inmates; drugs also were found in the warden's office. Still, conditions in the women's prison were better and less crowded than at Tacumbu. A small number of women were housed in predominantly male facilities, where they were segregated from the male population. After the August riots, prison officials transferred 19 female inmates to the all-male Emboscada maximum-security prison to separate them from the general population.

The Congressional Human Rights Commission criticized the prisons for their poor nutritional standards. Prisons generally served one meal a day, and prisoners seldom got vegetables, fruit, or a meat protein source, unless they had individual means to purchase them.

In June the IACHR referred a long-standing complaint against conditions in Panchito Lopez, the former youth detention center, to the Inter-American Court for Human Rights. The complaint, filed by the NGOs Center for Justice and International Law (CEJIL) and Tekojoja alleged that prison officials had violated the human rights of youth offenders at Panchito Lopez from 1996 until the facility burned in 2001.

In September the Ministry of Justice and Labor replaced the warden and senior security officials at the Emboscada prison after reports that officials were beating

and torturing prisoners. In July authorities fired the officials in charge of the Tacumbu Prison and charged them after learning that officials and inmates were operating a stolen car ring out of the facility.

The Government, led by Justice and Labor Minister Diego Abente, took some steps to improve prison conditions. Work continued on new juvenile facilities at Itagua and Fernando de la Mora prisons. While pretrial detainees were not held separately from convicted prisoners, in January the Ministry of Justice decreed that convicted inmates would be segregated from those who were held awaiting trial. The new administration at Tacumbu made several immediate changes, including closing the areas where more affluent prisoners paid for more comfortable accommodations. To increase accountability, in January a judge ordered that authorities provide national identification cards to prisoners.

The Government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives have been granted access to prisons on announced and unannounced visits.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention were persistent problems. The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement. The police may arrest persons without a warrant if they catch them in the act of committing a crime, but they must notify a prosecutor within 6 hours. In practice the authorities did not always comply with these provisions.

Pretrial detention remained a serious problem; an estimated 66 percent of persons in prison were held pending trial, many for months or years after their arrest. While the law encourages speedy trials, the Constitution permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurs in practice. Judges have the discretion to permit “substitute measures,” such as house arrest, in place of bail for most crimes. Judges frequently set relatively high bail, and many accused persons were unable to post bond. The Supreme Court and many criminal court judges also made periodic visits to the prisons to identify and release improperly detained individuals.

In 1999 more than 45 persons—including well-known political figures—were arrested in connection with the 1999 assassination of Vice President Argana and the killing of student protesters (*see* Section 1.a.). Sanctions against three of the four prominent suspects, who had been remanded to house arrest or other alternative detention, were discontinued, and only one person remained subject to such sanctions (*see* Section 1.a.).

The last of the 54 military personnel detained in 2000 for their suspected participation in the attempted coup were released from prison. The Supreme Court reversed the convictions of members of an artillery battalion, and many of the other personnel were not tried or sentenced.

The Constitution expressly prohibits exile, and the Government did not use it.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, politicians and other interested parties often pressured judges, although the judiciary was not allied with any one political group. Courts remained inefficient and subject to corruption and political influence.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the Magistrate’s Council. There are five types of appellate tribunals: Civil and commercial, criminal, labor, administrative, and juvenile. Minor courts and justices of the peace fall within four functional areas: Civil and commercial, criminal, labor, and juvenile. The military has its own judicial system.

The 2000 Penal and Criminal Procedures Code provides the legal basis for the protection of fundamental human rights. The new code introduced expedited oral proceedings and requires prosecutors to bring charges against accused persons within 180 days. Defendants enjoy a presumption of innocence, and defendants and the prosecutor may present the written testimony of witnesses as well as other evidence. The judge alone determines guilt or innocence and decides punishment. A convicted defendant may appeal his or her sentence to an appeals court, and the Supreme Court has jurisdiction over constitutional questions.

The new system reduced the backlog of pending criminal cases, as 95 percent of those cases active in 1999 had been resolved by March 2001. The average length of a criminal proceeding dropped by 75 percent, resulting in a reduction of the length of pretrial detention; however, the average time from arrest to trial was still approximately 240 days. The long trial period highlighted the judiciary’s struggle with inefficiency and insufficient resources.

In September the Supreme Court voided provisions of the new criminal code that would have dismissed those cases filed under the old system that were still pending on February 28, 2003. Human rights advocates hailed this decision, which they felt would prevent defendants from avoiding prosecution by delaying their cases until that deadline.

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary, but this right often was not respected in practice. Many destitute suspects received little legal assistance, and few had access to an attorney sufficiently in advance of the trial to prepare a defense. The 148 public defenders in the country, including 44 in Asuncion, lacked the resources to perform their jobs adequately.

There were no reports of political prisoners. Of the more than 45 supporters of former General Lino Oviedo who were arrested after the 1999 killings of Vice President Argana and the student protesters, 4 were awaiting prosecution at year's end (*see* Sections 1.a. and 1.d.). They said they were being detained because of their political opposition to President Gonzalez Macchi.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides that the police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant; however, at times the Government infringed on citizens' privacy rights. While the Government and its security forces generally did not interfere in the private lives of citizens, human rights activists claimed that local officials and police officers abuse their authority by entering homes or businesses without warrants and harassing private citizens. There were allegations that the Government occasionally spied on individuals and monitored communications for political and security reasons.

During the year, the authorities took steps to reduce the illegal conscription of minors, the mistreatment of recruits, and the unexplained deaths of recruits (*see* Sections 1.a. and 1.c.). The Government's Inter-Institutional Committee, including judges, attorneys, legislators, and NGO representatives, continued its visits around the country during the year to inspect conscripts' records and identify any minor soldiers. The Committee had the power to investigate and report on abuses and conditions.

The Government established review procedures for military recruits to prevent future enlistment of minors, although it was unclear whether they had been implemented. The Government ordered all military officers responsible for recruiting to ensure that all conscripts meet the legally minimum mandated requirement age of 18 for military service. The armed forces no longer allowed 17-year-olds to enlist with parental permission. However, there were reported violations, including allegations that military recruiters forced underage youths to join units and provided them with false birth certificates and other documentation to show them to be of age. In September and October, Human Rights Ombudsman Manuel Paez Monges found 20 17-year-old conscripts in the Intendencia and Navy facilities and formally petitioned the armed forces chief to stop recruiting underage soldiers.

Since 1989, 111 underage conscripts have died while in military service. In November underage military conscript Luis Fernando Bobadilla Acuna died of a gunshot wound while on duty (*see* Section 1.a.).

There were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers (*see* Section 1.c.). In June 2001, the Coalition to Stop the Use of Child Soldiers reported that the average age of recruits was 16.4 years and that seven underage soldiers had died.

Human rights organizations and victims' families filed complaints with the IACHR on behalf of five men who died—one had been beaten and another tortured—or disappeared while in military service between 1989 and 1998. In January the Senate Human Rights Commission charged Sigfrido Chavez Orrego with altering birth certificates of minors who then were enlisted. Chavez Orrego allegedly forged documents for recruits in the Second Calvary Division and in the Lower Chaco. The charges came after visits in 2001 to military institutions by the Government's Interinstitutional Committee.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression and the press, and the Government generally respected these rights in practice.

The print and electronic media were independently owned; some media outlets were tied closely to political parties, particularly the Colorado party, factions of this party, or business entities. The media commonly criticized the Government and freely discussed opposition viewpoints.

In February a court of appeals confirmed a fine of \$90,000 (630 million guaranies) against ABC Color Editor Aldo Zuccolillo in a case of slander brought by a senator of the Colorado Party.

In March a criminal court in Alto Parana and Canindeyu confirmed a 25-year sentence given to the man convicted of the January 2001 killing of journalist Salvador Medina, a reporter and chairman of the board of directors of radio station Nemity FM in Capiibary, San Pedro. Medina's family said he received a number of threats just prior to his death following exposes he had made in his radio broadcasts.

In July the World Association of Community Radio Broadcasters alleged that the National Telecommunications Commission, accompanied by police, shut down radio station Nemity FM in Capiibary, for which Medina had been a reporter and board member, and confiscated its equipment. The Commission claimed it was enforcing a 1999 judicial order to close the station for regulatory reasons.

In August the Senate modified provisions of the Privacy Law to limit its effect on freedom of the press. Critics of the law argued that while intended to protect dissemination of personal information about individuals, in practice it limited the public's access to information about the property and the commercial and legal affairs of public employees.

A report issued in September by the Sindicato de Periodistas del Paraguay (SPP), the national journalists' union, warned of "alliances of media owners and politicians . . . that impede the exercise of pluralistic journalism." The SPP mentioned the example of Radio Corpus, in Ciudad del Este, explaining that the station fired a journalist who refused to do paid interviews with local politicians.

In July the Supreme Court affirmed a decision overturning ABC Color journalist Telmo Ibanez's libel conviction, levied after his reports on corruption among government officials in Concepcion.

There were no further developments in the 2001 case of threats against journalist Sever del Puerto.

In September the Government closed Internet service provider Planet after a prosecutor alleged that the company was providing international telephone service in violation of the telecommunications laws. After 4 days, the Government dismissed the charges and allowed Planet to resume operations.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of all citizens to peaceful assembly, and the Government generally respected this right in practice; however, in some cases police used violent force against nonviolent assemblies.

The law restricts demonstrations in Asuncion to certain times and places, and specifically prohibits meetings or demonstrations in front of the presidential palace and outside military or police barracks. Some groups have opposed these restrictions. The law also requires that organizers notify the Asuncion police 24 hours before any rally downtown. In addition, the law also prohibits public gatherings in the congressional plaza in Asuncion, the traditional focal point for many demonstrations, during daylight hours on workdays. The police may ban a demonstration but must provide written notification of the ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. This law does not apply to religious processions. During the year, the Government applied this law selectively, using it against its political opponents. The Constitution prohibits closing roads and bridges as a form of protest; however, demonstrators closed roads on several occasions.

Police used live ammunition and clubs against demonstrators at the National Palace in Asuncion several times. After a February confrontation, in which the National Police stated that its forcible actions were necessary to control the crowd, some human rights organizations severely criticized the police action as a return to the state-sponsored repression of the Stroessner regime. In September the police used force to disperse approximately 1,000 political demonstrators from the Palace grounds. These demonstrators were supporters of former general Lino Oviedo; their political party subsequently filed a complaint with the IACHR, and the International Federation of Human Rights expressed its "extreme concern" regarding the "violent police brutality" employed. No information was available at year's end on the IACHR's action on the complaint.

In June National Police in Caacupe used force to stop marchers protesting the privatization of government utilities. One demonstrator was shot and killed, and dozens of others were shot or beaten (*see* Section 1.a.).

In July President Luis Gonzalez Macchi declared a state of emergency, banning protests and authorizing arrests without warrants, after demonstrators nationwide blocked roadways and bridges. The demonstrators, allegedly organized by former

general Lino Oviedo, called for Gonzalez Macchi's resignation. After the protests subsided, the President lifted the state of emergency following constitutional procedures.

In September in Edelia, Itapua, police used force to disperse demonstrators—who had joined nationwide protests by mechanized farmers and others against economic conditions—after they refused to obey a court order directing them to clear roadways.

The Constitution provides for the right of all citizens to free association, and the Government generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government required that all religious groups register with the Ministry of Education and Culture but imposed no controls on these groups, and many informal churches existed.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—All citizens may travel within the country with virtually no restrictions, and there generally were no restrictions on foreign travel or emigration. However, the persons allegedly involved with plotting the 2000 coup were not allowed to leave the country and were required to sign in with the Justice Ministry once a month (see Section 3). The Constitution prohibits closing roads and bridges as a form of protest; however, protesters closed roads on several occasions (see Section 2.b.).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In July the country enacted asylum legislation based on a UNHCR model. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and Interior and the nongovernmental Committee of Churches. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to countries where they feared persecution.

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

Citizens have the right and ability to change their government through democratic means. Multiple parties and candidates contested the country's leadership positions. Five parties were represented in the Congress. The Constitution and the Electoral Code mandate general elections every 5 years, voting by secret ballot, and universal suffrage. Debate in Congress was free and frank. The Congress often rejected the executive branch's proposals.

Observers from the Organization of American States characterized as free and fair the August 2000 vice-presidential elections, the first national executive election won by the opposition in more than 50 years. Gubernatorial elections and nationwide municipal elections were held in April and November 2001, respectively. There were no reports of irregularities, although the elections were marked by the lowest voter turnout (50 percent) since the end of the Stroessner dictatorship in 1989. Political parties held primary elections in December to choose nominees for the 2003 presidential and congressional elections.

There are no legal impediments to women's participation in government and politics. There were 10 women in Congress (8 of 45 senators and 2 of 80 national deputies), and women headed 3 government ministries. The Electoral Code requires that 20 percent of each party's candidates in their internal primaries for elective office be women. Women served as judges (although not on the Supreme Court) and prosecutors.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right grew significantly in recent years. The inhabitants of some indigenous communities reported that they were threatened and prohibited from fully exercising their political rights.

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

The Government did not restrict the activities of any human rights groups or advocates; however, it had a mixed record in cooperating with or responding to recommendations from such groups.

Local NGO human rights groups included the Committee of Churches (an interdenominational group that monitored human rights, investigated refugee claims, and provided legal assistance), Tekojoja (a group dedicated to the protection of chil-

dren's rights), and SERPAJ (a group that defended conscientious objectors and provided legal assistance to those with grievances arising from military service). CODEHUPY's annual report highlighted abuses of police authority and mistreatment of military recruits and noted that an impartial and corruption-free judiciary is necessary to enforce human rights in the country. In February the Government and the International Red Cross (ICRC) signed a memorandum of understanding for ICRC operations in the country.

In October 2001, Human Rights Ombudsman (Defensor del Pueblo) Manuel Paez Monges began work as the country's human rights advocate. His office took charge of the prosecution of 330 lawsuits seeking compensation for human rights violations dating from the Stroessner dictatorship (*see* Section 1.b.).

The Director General of Human Rights, located in the Ministry of Justice and Labor, chaired the National Commission on Human Rights. The Commission sponsored seminars to promote human rights awareness. The Director General's office has access to the congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial power, but the commission may forward information concerning human rights abuses to the Attorney General for action. It served as a clearinghouse for information on human rights and trained thousands of educators in human rights law.

In 2000 the Supreme Court established an office to oversee the conduct and prosecution of human rights cases. During the year, the Supreme Court conducted human rights training workshops among government agencies.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and other laws prohibit discrimination based on race, sex, disability, language, or social status; however, certain groups, such as indigenous people, faced significant discrimination in practice.

Women.—The most pervasive violations of women's rights involved sexual and domestic abuse, which were underreported. Spousal abuse was common. Although the Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. Between January and August 2001, the Secretariat of Women's Affairs registered 533 cases of violence against women, a 25 percent increase over the same period in 2000.

According to women's rights activists, official complaints rarely were filed or were withdrawn soon after filing due to spousal reconciliation or family pressure. In addition, the courts allow for mediation of some family violence cases, which is not provided for by the law. There are no specialized police units to handle complaints involving rape. The Secretariat of Women's Affairs chaired a national committee, made up of other government agencies and NGOs, that developed a national plan to prevent and punish violence against women. Under the plan, an office of care and orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGOs. However, in practice these services were available only in Asuncion. The Secretariat also conducted training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operated a reception center where female victims of violence received legal, psychological, and educational assistance. No shelters for battered and abused women were available outside the capital of Asuncion. Most imprisoned women reportedly were detained for assault, including murder, committed following domestic violence.

The law prohibits the sexual exploitation of women, but the authorities did not enforce the prohibition effectively. Prostitution by adults is not illegal, and exploitation of women, especially teenage prostitutes, remained a serious problem. Law enforcement officials periodically staged raids on houses of prostitution. National daily newspaper Noticias ran a series of features in September and October chronicling child prostitution in Asuncion and other cities in the country.

There were reports of trafficking in women (*see* Section 6.f.).

The Labor Code prohibits sexual harassment; however, many women in the workplace faced sexual harassment. Claims of abuse are filed with the courts and the Ministry of Justice and Labor. Sex-related job discrimination continued to be widespread and widely tolerated. The Secretariat of Women's Affairs occasionally sponsored programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

Women had much higher illiteracy rates than men. A 2001 census survey found that 15.4 percent of rural women were illiterate, compared with 10.7 percent of rural men. In addition, maternal mortality rates are high, and as many as 65 per-

cent of such deaths were related to poor medical care. Several groups worked to improve conditions for women, including Women for Democracy, which was active in civic and electoral education. Other groups included SUMANDO, an NGO that promoted educational reform and voter participation in elections, and SEFEM, which focused on women and public policy and the participation of women in local development.

Children.—The Constitution protects certain children's rights and stipulates that parents and the State should care for, feed, educate, and support children. The population is very young, with an average age of 25.3 years; 38.6 percent of the population is under age 15. A February 2001 census survey reported that 45 percent of children age 5 or younger lived in poverty, compared with 32 percent of the general population. Boys and girls legally are entitled to equal treatment in education and health care. However, females had less access to education, particularly in rural areas. The educational system did not provide adequately for the educational needs of the population. The Government was unable to implement fully amendments to its General Education law, such as extending compulsory attendance through ninth grade, because of inadequate funds. Families pay a fee to cover each school's administrative expenses and must purchase books, uniforms, and other supplies for their children's use. The census found that the 2001 national literacy rate was 91.6 percent.

Abuse and neglect of children was a problem. A local NGO attributed a rise in the number of complaints of mistreatment of children during 2000 to the increased awareness of child abuse and neglect.

Sexual exploitation of children also was a problem. In a survey released in 2001, the NGO AMAR identified 619 child victims of sexual exploitation, the vast majority of whom lived in Asuncion and Ciudad del Este. Approximately 33 percent of the victims were under the age of 16.

There were unsubstantiated reports of trafficking in girls for the purpose of sexual exploitation (*see* Section 6.f.).

There continued to be reports of the conscription of underage youth (*see* Section 1.f.).

Persons with Disabilities.—The Constitution provides for equal opportunity for persons with disabilities and mandates that the State provide them with health care, education, recreation, and professional training. It further requires that the State formulate a policy for the treatment, rehabilitation, and integration into society of persons with disabilities. However, the Congress never enacted legislation to establish such programs or provide funding for them. Many persons with disabilities faced significant discrimination in employment; others were unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the persons with disabilities, and the vast majority of the country's buildings, both public and private, were inaccessible.

Conditions at the Neuropsychiatric Hospital in Asuncion were substandard, and some patients reportedly were kept unclothed in cells and were not treated for their mental illnesses. The physical facilities of the hospital lacked running water, electricity, or even roofs, and the hospital was severely understaffed. Children were housed with adults in the facility and were subject to sexual assaults from older patients. Two men were arrested and charged with sexually assaulting inmates at the hospital. No information was available on the Government's response to problems at this facility, including the 2001 death of an inmate (*see* Section 1.a.).

In June members of the Paraguayan Association of the Blind contended that the group had received only one-third of the \$30,000 (210 million guaranies) fund promised in 2001 by the Government's Social Benefits Division. There was no information on the ultimate disposition of these funds.

Indigenous Persons.—The Constitution provides indigenous people with the right to participate in the economic, social, political, and cultural life of the country; however, the indigenous population—80,000, according to 2001 census data—was unassimilated and neglected. Low wages, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination were common. Numerous indigenous groups challenged Congress's proposed changes to the Indigenous Community Statute, which grants local groups the right to observe their traditional lifestyles and customs. Weak organization and lack of financial resources limited access by indigenous people to the political and economic system. Indigenous groups relied primarily upon parliamentary commissions to promote their particular interests. The Constitution also protects the property interests of indigenous people, but these rights are not codified fully. The Constitution allows Public Ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land hindered the ability of indigenous groups to progress economically and maintain their cultural identity. In addition, there was insufficient police and judicial protection from persons encroaching on indigenous lands. The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal homelands. However, there were significant allegations of wrongdoing within INDI. Furthermore, many indigenous people found it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership.

Other significant problems facing the indigenous population included lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention slowed progress in dealing with these problems.

Section 6. Worker Rights

a. The Right of Association.—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference. The Constitution contains several provisions that protect fundamental worker rights, including an antidiscrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent, of workers were organized in approximately 1,600 unions.

In general unions were independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), was aligned closely with the ruling Colorado Party.

All unions must be registered with the Ministry of Justice and Labor. Although the official registration process was cumbersome and could take a year or more due to government bureaucracy, the Ministry of Justice and Labor issued provisional registrations within weeks of application. Employers who wish to oppose the formation of a union can delay union recognition by filing a writ opposing it. However, almost all unions that request recognition eventually receive it.

The International Labor Organization (ILO) Committee of Experts noted deficiencies in the application of certain conventions ratified by the Government. These included conventions dealing with minimum wage, abolition of forced labor, minimum age of employment, freedom of association, equal remuneration, and employment policy. The ILO specifically criticized as inconsistent with international norms regarding the freedom of association regulations requiring a minimum of 300 workers to form a union; the imposition of excessive requirements to be able to hold office in the executive body of a trade union; and the submission of collective disputes to compulsory arbitration. In response to the ILO criticism, the Ministry of Justice and Labor did not enforce the 300-worker minimum, although the requirement remained in the Labor Code.

The Constitution prohibits antiunion discrimination; however, the firing and harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes were jailed for their role in leading demonstrations. Fired union leaders may seek redress in the courts, but the labor tribunals were slow to respond to complaints and typically favored business in disputes. The courts were not required to order the reinstatement of workers fired for union activities. In some cases when judges ordered the reinstatement of discharged workers, employers continued to disregard the court order with impunity. The failure of employers to meet salary payments also frequently precipitated labor disputes. Principal problems included bottlenecks in the judicial system and the inability or unwillingness of the Government to enforce labor laws. There were a number of cases involving trade union leaders fired as long as 8 years ago that remained pending in the courts. In May the president of a government employees' union alleged that he had been fired because of his union activity; at year's end, there was no information on the resolution of his complaint. In November a union reported that officials in San Lorenzo threatened to fire a union organizer until the union intervened on his behalf. The ILO and the International Confederation of Free Trade Unions criticized the lack of measures to prevent antiunion discrimination and observed that legislation does not oblige labor courts to reinstate unfairly fired trade unionists.

There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. There were several cases of workers who chose not to protest due to fear of reprisal or anticipation of government inaction.

Unions were free to form and join federations or confederations, and they were affiliated with and participated in international labor bodies.

b. The Right to Organize and Bargain Collectively.—The law provides for collective bargaining, and this provision was generally respected in practice. According to the Ministry of Justice and Labor, there were approximately 30 collective bargaining agreements in place. However, they were the exception rather than the norm in labor-management relations and typically reaffirmed minimum standards established by law. When wages were not set in free negotiations between unions and employers, they were made a condition of individual offers of employment.

The Constitution provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business; however, employers often took action against strikers and union leaders. Voluntary arbitration decisions are enforceable by the courts, but this mechanism rarely was employed. Senior Labor Ministry officials were available to mediate disputes.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of the strikes were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contribution to the social security system. Others were directed at broader economic issues. In May police and former employees of the Itaipu Dam clashed in Ciudad del Este during a labor demonstration protesting layoffs by a contractor at the dam. Thirty persons, including 4 police officers, were injured in the confrontation, and 28 were arrested. In June employees of the telephone utility Antelco led a series of strikes in Asuncion and throughout the country opposing the planned privatization of that company; ultimately, the Government decided to withdraw its plans to sell the company. In the September “tractorazo” strikes, farm workers throughout the country went on strike, ceasing production and parking their vehicles on the sides of roadways demanding reductions in the gasoline tax and water rates and changes in other economic measures (see Section 2.b.).

There were no export processing zones. Maquiladora factories, which assemble imported parts for re-export, have been established in the eastern part of the country. The Mercosur trade association accepted the country’s maquiladora factories into its automotive regime. The country’s labor laws apply to maquila operators.

c. Prohibition of Forced or Bonded Labor.—The law prohibits forced labor, including by children; however, cases of abuse of national service obligations (compulsory military service for all males, unless exempted as conscientious objectors) occurred (see Section 6.d.). There were reports of conscripts forced to work as construction workers for military officers in their privately owned businesses. There were allegations of forced conscription of underage youths (see Section 1.f.).

Frequently families who could not afford to raise a child—usually a daughter, sometimes as young as age 5—sent the child to relatives or colleagues, who expected the child to work in exchange for room, board, and access to education.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws; however, in general the Government did not enforce minimum working age regulations, and child labor was a problem. Minors between 15 and 18 years of age may work only with parental authorization and may not be employed in dangerous or unhealthy conditions. Children between 12 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. The Labor Code prohibits work by children under 12 years of age.

The 2001 census found that 5 percent of the workforce was under the age of 14. The Statistics Bureau reported that from August to December 2000, 55 percent of boys between the ages of 10 and 19 worked. According to the NGO Coeti, 265,000 children, or 13.6 percent of children between the ages of 5 and 17, worked outside their homes, many in unsafe conditions. Studies indicated that 42 percent of these children began working by the age of 8, and some 37 percent did not attend school. Thousands of children in urban areas, many of them younger than 12 years of age, were engaged in informal employment, such as selling newspapers and sundries and cleaning car windows. Many of the children who worked on the streets suffered from malnutrition and disease and lacked access to education. Some employers of the estimated 11,500 young girls working as domestic servants or nannies denied them access to education and mistreated them (see Section 6.c.). Employers sometimes filed false charges of robbery against those who sought to leave domestic jobs and turned them over to the police. In rural areas, children as young as 10 years of age often worked beside their parents in the field; 88 percent of rural children in the labor force worked at home or with family members, according to Coeti. Local human rights groups did not regard families harvesting crops together as an abuse of child labor.

In August more than 500 child and adolescent workers gathered to protest adoption of ILO Convention 138, which established for the first time a minimum working age (14).

e. Acceptable Conditions of Work.—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. There was no public sector minimum wage. In practice most (but not all) government agencies adjust the hours of work for government workers to be paid at a rate comparable to the private sector minimum wage. The minimum salary is adjusted whenever annual inflation exceeds 10 percent, and it was approximately \$136 (876,168 guaranies) per month at year's end, according to the Ministry. However, the Ministry was unable to enforce the minimum wage and estimated that 50 percent of workers earned less. The Labor Code requires that domestic workers be paid at least 40 percent of the minimum wage and allows them to work up to a 12-hour day.

The Labor Code allows for a standard legal workweek of 48 hours (42 hours for night work), with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The law requires overtime payment for hours in excess of the standard. However, many employers violated these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely staged strikes to demand that their employers comply with the Labor Code's provisions on working hours, overtime, and minimum wage payments.

The Labor Code also stipulates conditions of safety, hygiene, and comfort. The Government did not devote sufficient resources to the Ministry of Justice and Labor and the Ministry of Health to enforce these provisions effectively.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their continued employment, but they may not do so until such conditions were recognized formally by the Ministries of Justice and Labor and Health. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

f. Trafficking in Persons.—The Constitution proscribes and the Penal Code criminalizes trafficking in persons, but there were sporadic reports of trafficking to and from the country for sexual purposes.

The Penal Code punishes trafficking in persons with up to 10 years in prison; the code also outlaws compelling anyone to travel outside of the country or to enter the country for the purpose of prostitution or compelling a minor under 18 years of age to work as a prostitute. There were no documented prosecutions against traffickers. The Government's Secretariats of Women's Affairs, Children's Affairs, and Social Action maintained an interest in trafficking.

In July the ILO completed a study of the sexual exploitation of persons in the area near Itagua bordering Argentina and Brazil. The survey observed children as young as 8 years of age involved in prostitution, many to supplement their families' incomes (see Section 5). The survey was part of the ILO's 4-year program to identify and remedy the social and legal problems leading to abuses in the region.

In September and October, the newspaper Noticias published a series of anecdotal articles about children working as prostitutes in Asuncion, Ciudad del Este, Ita, and other towns; they often were recruited by boyfriends and older relatives or were runaways.

Because there were no government investigations of trafficking, there was no information regarding methods used or persons responsible.

The NGOs Luna Nueva and Global Infancia monitored trafficking situations that affected women and children and provided assistance to victims.

PERU

Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In November 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office. The Government held elections in April and June 2001, which observers considered to be generally free and fair. Alejandro Toledo of the Peru Posible party won the presidential runoff election with approximately 53 percent of the vote and was inaugurated in July 2001. The Constitution provides for an independent judiciary; however, the judiciary widely was considered corrupt and was subject to pressure from

the executive over controversial decisions favoring members of the Fujimori government. The Government continued judicial reform efforts.

The Peruvian National Police (PNP) and the military shared responsibility for internal security; they were under effective civilian control. Members of the security forces committed some serious human rights abuses.

Over the last decade, the Government transformed a heavily regulated economy into a market-oriented one. The country's population was approximately 27 million. Gross domestic product grew 4.8 percent during the year, compared with only 0.2 percent growth in 2001. Inflation, which was 0.1 percent in 2001, stayed under 1.5 percent during the year. Major exports include copper, gold, and other minerals, fishmeal, textiles, and agricultural products. Close to 54 percent of the population lived in poverty, earning less than \$1.25 per day; about 15 percent of the population lived in extreme poverty, unable to meet the most basic food, shelter, and clothing requirements.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were allegations of unlawful or unwarranted killings by police, and one military recruit died as a result of abuse by superior officers. Police tortured, beat, and otherwise abused detainees. Prison security forces abused inmates. Torture and abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. There continued to be reports of arbitrary arrest and detention. Pretrial detention continued to be prolonged, and trials were frequently subject to inordinate delays. Despite extensive changes to reduce executive dominance over the judiciary, problems persisted, including the general inefficiency of the system. Press freedom improved and greater public attention was focused on the need for a free press, although strong suspicions remained of isolated attempts by the Government to influence the media by threats of legal or judicial action. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argued that labor laws and practices restricted freedom of association and collective bargaining rights, but a December law addressed some of these problems. Child labor remained a serious problem in the informal sector. Peru was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other abuses.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of politically motivated killings by government agents. There were a few allegations of unlawful or unwarranted killings by police. One military recruit died after being tortured by superior officers.

In April police detained Andy Williams Garces during a police surveillance operation in Piura. One officer allegedly shot Garces, who fell into a river. Police claimed that Garces jumped into the river, swam to the other side, and escaped. An investigation began, but no charges have been filed, as Garces' body was not found.

On July 2, three members of a Lima municipal patrol unit and one PNP officer detained Jose Reina Rincon, a bullfighter from Spain. Two of the municipal guards beat Reina to death, and the four men then dumped Reina's body at a beach near Lima. The authorities charged two of the municipal guards with homicide and one guard along with the PNP officer as accomplices. The investigation continued at year's end.

In October a prosecutor in Arequipa accused 24 police officers with killing 2 persons, Fernando Talavera Soto and Edgar Pinto Quintanilla, who died after being hit with teargas canisters during the Arequipa protest (*see* Section 2.b.). The authorities charged the officers with negligent homicide; at year's end, no trial had begun.

According to the Human Rights Commission (COMISEDH)—a nongovernmental organization (NGO)—and a congressional subcommittee looking into killings, torture, and mistreatment of young soldiers, there was one report of a military recruit killed in Iquitos after being tortured. An autopsy revealed that Pitter Rengifo Vasquez was severely beaten before being killed allegedly by superior officers in June.

On September 17, a Cajamarca department mayor and candidate for reelection, Joselito Fernandez Perez, was murdered. Fernandez Perez was part of the National Unity ticket, a nationwide, center-right umbrella group headed by 2006 presidential hopeful Lourdes Flores. Flores and other National Unity leaders claimed the murder was politically motivated, particularly as two other National Unity activists were shot in the same locality. Police arrested rival mayoral candidate Jose Fernandez Cabana, an independent, in connection with the murder. This appeared to be an isolated incident of election-related violence; an investigation was underway at year's end.

For the first time, in August a court sentenced officials for human rights crimes. In the case of the killing in 2000 of Alejandro Damian Trujillo Llontop, the court sentenced PNP Lieutenant Cesar Gomez Cassani and six other officers to 8 to 10 years in prison for human rights violations related to disappearance, torture, and murder. In early 2001, the officers were tried for Trujillo's murder, but a judge determined that errors occurred during the deposition process and subsequently released them. The prosecutor later brought charges against the policemen for the human rights crime of forced disappearance (*see* Section 1.e.).

In August the Supreme Court ruled that jurisdiction over 15 military commandos who led the 1997 hostage rescue operation at the Japanese ambassador's residence rested with the military court system. The Supreme Court supported its decision to send the case to the military court saying that the mission was carried out under a presidential order during a state of emergency. The Court ruled that four others—former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio—were subject to civilian criminal court jurisdiction. The ruling came after an investigation into reports that the military executed Tupac Amaru Revolutionary Movement (MRTA) rebels in the aftermath of the rescue operation. At issue was whether the officers followed an order to kill any MRTA survivors, allegedly given by Montesinos and authorized by former President Alberto Fujimori. At year's end, the trials were pending.

There were no developments in the cases of Juan Carlos Campos Valentin and Graciano Rufino Martinez, who escaped from Challapalca prison and were subsequently killed by prison officers in February 2001.

In February an investigation by the prosecutor's office in San Juan de Lurigancho discounted accusations of torture and homicide and determined that inmate Felipe Davila Gamarra died as a result of injuries he received during an fight with other inmates in February 2001. The case was closed.

Initial trial proceedings were underway in civilian court against four police officers and a military lieutenant in the May 2001 case of Jenard Lee Rivera San Roque, who died after being detained and allegedly tortured and beaten. Amnesty International stated that the police attempted to prevent Rivera's family and neighbors from bringing to justice the officers responsible for his torture and death. COMISEDH had asked that the trial not be assigned to a military court.

There was no new information in the June 2001 case of Nazario Victor Valencia Porras, who died after police took him to the Matucana police station as a robbery suspect.

When charges were dropped after the prosecutor's office in Tacna accused six National Prison Institute (INPE) officers of killing Guillermo Navarro Rospigliosi in August 2001, COMISEDH objected to the dismissal of charges, and an investigation was underway at year's end.

Initial trial proceedings were underway against two police officers and a taxi driver for the crimes of torture and grave injuries followed by death in the killing of Cesar Augusto Ayaucan Argedes in August 2001. COMISEDH appealed to have the officers detained during the trial, but the decision from the appeals court was pending.

In December 2001, a judge sentenced PNP officer Idelso Murrugarra Casimiro to 4 years in prison and fined him \$860 (3,000 soles) for beating and killing Carlos Lopez Flores.

In the case of Mario Clemente Guillen Mendez, a court in Chincha acquitted five police officers in December 2000; they were accused of torture that led to his death. The victim's family filed an appeal, and the case went to the Supreme Court in January 2001.

Military service was no longer mandatory, but mistreatment of military recruits continued to be a problem (*see* Section 1.c.). Initial trial proceedings began regarding the case of recruit Ronald Enrique Pena Garcia, killed in 2001. An air force lieutenant and two noncommissioned officers were under investigation for homicide. There were no developments in the cases of Percy Cusihualpa Franco and Isaias Yanac Rodriguez, two military recruits who died in 2001 under suspicious circumstances.

Initial trial proceedings continued in the case of Juan Carlos Aliaga Mera, a former crewmember in President Fujimori's presidential plane who was found dead in the Callao Air Group 8 Complex. His body had a bullet wound in the head and, according to the family, showed signs of brutal torture.

Initial trial proceedings began during the year against two police officers for the crime of torture, among other charges, of Nelson Diaz Marcos, who died after police in Tacna arrested him on charges of public intoxication in 2000.

After an investigation and exhumation of the body in the case of recruit Jose Luis Poma Payano, the prosecutor charged three air force officers with homicide for his 2000 death. In June initial court proceedings began, and a trial was underway. COMISEDH issued an appeal because the prosecutor was not trying the officers for the crime of torture. No decision had been reached on the appeal by year's end.

The authorities closed the case of Marino Fernandez Sanchez, who died in 2000 after allegedly having been tortured by military officials, as the cause of death was determined to be a severe case of malnutrition.

In August 2001, Congress voted unanimously to remove former President Fujimori's immunity from prosecution as a former head of state. In September 2001, Fujimori was indicted on charges of murder, causing grave injuries, and responsibility for persons who disappeared in relation to the La Cantuta and Barrios Altos killings (*see* Section 1.b.). Both events were attributed to the La Colina death squad, allegedly formed by members of army intelligence. Fujimori remained in his parents' native Japan, where he fled in 2000. As a Japanese citizen, he was protected from extradition. The Government continued to pursue a diplomatic solution in order to return Fujimori to be tried in court.

The Government continued in its efforts to arrest members of the La Colina group. On November 18, the PNP arrested former Army death squad leader Santiago Martin Rivas in Lima. Rivas led the La Colina death squad that operated against suspected terrorists during the Fujimori regime and was believed responsible for at least 25 killings, including the murders of 9 students and a professor at La Cantuta University in 1992 and 15 persons in the Barrios Altos section of Lima in 1991. Rivas had eluded capture since 2001 when the Inter-American Human Rights Court overturned Fujimori's commutation of a 20-year sentence handed down in 1995 for the La Cantuta killings. At year's end, initial trial proceedings were underway. The authorities arrested two other La Colina members during the year.

In April the Government paid almost \$3 million (10.5 million soles) in reparations to families of the Barrios Altos victims, in compliance with a ruling by the Inter-American Commission on Human Rights (IACHR).

In December the Inter-American Court of Human Rights ruled that the Government must investigate, try, and sanction those responsible for the 1986 massacre of inmates at El Fronton jail. In October the Supreme Council of Military Justice had upheld the exoneration of members of the military who ended terrorist-instigated riots in three prisons at a cost of over 200 lives. The El Fronton case was brought to the Inter-American Court by relatives of two dead inmates who later were found innocent of the terrorism charges on which they had been jailed.

In November 2001, the Ombudsman turned over to the Truth and Reconciliation Commission evidence of human remains in 51 mass graves, more than half of which were located in the Ayacucho area. During the year, the commission observed the Public Ministry's exhumations of two common graves near Ayacucho as part of its investigation into the political violence between 1980–2000 (*see* Section 4). The exhumations served to identify victims, return victims' remains to their families, and search for clues to identify those responsible for the killings. On December 7, the commission issued its first official report, which detailed a massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho, on May 17, 1980. The report was turned over to the Attorney General for further action.

Sendero Luminoso terrorists killed 11 persons during the year in the course of 154 acts of violence. There were two significant bombings, both attributed to Sendero Luminoso. On March 20, terrorists detonated a car bomb in a Lima suburb that killed 10 persons and injured 38. Earlier the same day, alleged terrorists detonated a bomb at a branch office of the Spanish-owned Telefonica company in downtown Lima; no injuries were reported and the facility received only minor damage. Police arrested eight Sendero Luminoso terrorists in relation to the car bombing.

In January members of the native Aguaruna community attacked settlers living on land claimed by the Aguaruna. A court order required the settlers to vacate the land in the northern area of Cajamarca, but the order was not enforced and the settlers returned. The indigenous group killed 35 settlers, including men, women, and children, and injured dozens in the ambush.

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

In May the Ombudsman's office reported that there were 6,089 cases of forced disappearance between 1980 and 2000, which were among the human rights abuses under investigation by the Truth and Reconciliation Commission (*see* Section 4). The Ombudsman's office noted that the Sendero Luminoso or Tupac Amaru rebels abducted the majority of the victims, mainly indigenous peasants.

Few members of the security forces were accountable for their role in disappearances, and impunity remained a problem.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment by the security forces continued to occur. Abuse of individuals in police custody and inmates in prison by security forces continued to be a problem, as did torture and abuse of military recruits. Impunity was a problem, and the authorities who committed such abuses seldom were held responsible. A June Amnesty International report on torture called on the authorities to take decisive action to eradicate torture and to correct the problem of impunity.

Torture most often took place immediately following arrest. Torture was common during police detention when families were prohibited from visiting suspects being held incommunicado, and when attorneys had only limited access to them (*see* Section 1.d.). During the year, there were two cases of suspects dying following torture or beatings by security officials (*see* Section 1.a.).

In some cases, the police and security forces threatened or harassed victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International and COMISEDH, several victims were too frightened to follow through with judicial proceedings against their abusers, who subsequently were released without being charged. COMISEDH reported 8 cases of aggravated torture by security forces, compared with 36 in 2001 and 35 in 2000.

In past years, abuse was particularly common in police cells operated by the National Counterterrorism Directorate (DIRCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally were held. Psychological torture and abuse, which resulted from the harsh conditions in which detainees were held, were more characteristic of the prisons.

On January 12, 20 police officers from the Cotabambas Police Station tortured Renzo Vega Hidalgo. The police had arrested several youths living in a poor settlement called "La Casona." Vega, who was 19 years of age, resisted arrest and was beaten with a stick. He lost an eye during the beating. An investigation was underway.

On August 24, police officers in Callao arrested Omar de la Cruz for alleged involvement in a robbery. After giving his statement, several police tortured him using rubber batons. Family members reported to COMISEDH that de la Cruz had injuries on his head and neck and a burn on his waist. An investigation was underway at year's end. COMISEDH reported that the victim's family refused legal assistance due to fear of retaliation.

In November police in Chacabayo detained Jair Martin Rodriguez and his brother after a series of fights in their home and in the neighborhood. Six police officers allegedly beat Rodriguez when he resisted being put into a cell. Rodriguez required surgery to repair damage to a finger. At year's end, an investigation had begun.

There were no updates in the May 2001 case of inmate Teobaldo Pozo Tupayachi, beaten at the Quencoro prison.

There were no new developments in torture cases from 1999 and 2000 involving the following victims: Catalino Daga Ruiz, Bernardo Daga Ruiz, Mario Jimenez Roque; Julio Armando Uribe, and Victor Valle Cabello. No further investigations into these cases were expected.

Amnesty International reported that in the 1999 case of torture and subsequent death of Moises Paco Mayhua, a judge in Puno ruled that there was evidence of torture. The two police officers allegedly implicated in the torture and murder were still on active duty in another district. Judicial hearings had begun, although the two police officers had not yet appeared before the court.

In the case of Amador Carmen Canchaparan, whom military officials arrested and allegedly tortured on a military base in 2000, COMISEDH reported that a criminal court was expected to try army Major Max Espinoza Sanchez for abuse of authority.

The Legal Defense Institute reported that in the case of the 1998 torture of Raul Teobaldo by five naval officers, only one officer appeared for the trial in Ucayali. He was sentenced to 6 years in prison for abusing Teobaldo but appealed his sentence to the Supreme Court in Lima where all charges against him were dropped. At year's end, arrest warrants were outstanding against the remaining four officers.

There were no developments in the case of journalist Fabian Salazar during the year. The IACHR accepted the case in 2001.

In September 2001, the Government acknowledged the infringement of the rights of military intelligence officer Leonor La Rosa by four of her colleagues who beat and tortured her in 1997. The Government awarded her financial compensation in 2001. During the year, one congressman and several military officials questioned La Rosa's claim that her physical impairments (she is confined to a wheelchair) occurred as the result of torture. In October two retired military officers, accused by La Rosa of torturing her in 1997, were released from prison after submitting writs of habeas corpus through the civilian court.

As in previous years, NGOs and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem. There were five reported incidents of torture of military recruits, one of which resulted in death (*see* Section 1.a.). At year's end, a congressional subcommittee continued to look into killings, torture, and mistreatment of young soldiers.

In January in Andahuaylas, a superior officer allegedly beat Freddy Cardenas Maucaylle in punishment for poor performance during a firing range exercise. Cardenas lost the use of his hand as a result of the beating, but chose not to make a formal accusation against the superior officer.

In July three superior officers allegedly drugged and sexually assaulted soldier Rolando Quispe Berrocal in an Ayacucho barracks. The authorities held the accused officers in a military prison and charged them with torture; a trial in civil court was pending at year's end. In August a military court gave a 30-day suspended sentence in solitary confinement to Quispe Berrocal and ordered him to pay \$430 (1,500 soles) in damages to the State and the military for making false statements. Human rights advocates disputed the court's ruling and accused military officers with obstruction of justice in this case.

In August superior officers allegedly raped recruit Edison Huamacto Marivas. Although an investigation was underway in Lima, the victim decided to drop the charges in order to avoid further press attention and to forget what happened. The perpetrators were not identified.

In October in Piura, a superior officer allegedly kicked and beat soldier Noe Moises Canales Salazar until he was unconscious after finding him sleeping during guard duty. Canales suffered severe internal injuries as a result of the beating and underwent two surgeries. At year's end, the case was pending and to be tried in civilian court.

The authorities concluded an investigation in the 2001 case of Frank Alfredo Romero Arrieta, a military recruit who was beaten by officers and left with serious spinal cord damage and unable to walk normally, and charged five officers with torture. Although initial trial proceedings had begun, a military court opened a parallel trial during the year, charging the officers only with abuse of authority. COMISEDH appealed to the judge in charge of the proceedings to deny venue to the military judge.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons committing offenses such as robbery, burglary, rape, and child molestation.

Conditions were poor to extremely harsh in all prison facilities. About one-half of all prisoners were in facilities where the National Police had both internal and external control; the other half were in facilities under internal control of National Prison Institute guards and under external control by the police. Conditions were especially harsh in maximum-security facilities located at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Prison guards and fellow inmates routinely victimized prisoners.

There were no reports of security forces killing inmates during the year. Human rights observers who monitored prison activity reported that torture and ill treatment of prisoners by security forces occurred during the year. Corruption was a serious problem among poorly paid prison guards, many of whom engaged in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities did not supply adequate bedding and budgeted only about \$0.79 (2.75 soles) per prisoner per day for food, the families of prisoners typically had to provide for these basic needs.

Overcrowding and inadequate infrastructure hampered efforts to improve prison living conditions. The 81 prisons and detention facilities held 28,403 prisoners as of December. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7,000 prisoners lived in a facility built to accommodate 1,500. Inmates in all prisons had only intermittent access to running water; bathing facilities were

inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels.

As of December, approximately 69 percent of all prisoners had not been sentenced (see Section 1.d.). Pretrial detainees were held together with convicted prisoners in most cases. Detainees held temporarily while awaiting arraignment in Lima were not provided with food. This temporary detention period lasted from a few hours up to 3 days. The detainees were not allowed outside for fresh air and had restricted access to bathrooms.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violated international norms and standards, particularly as a result of its isolation and high altitude. Located at 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air had unavoidably detrimental effects on prisoner health. The prison could be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. To relieve some of the isolation, the ICRC funded periodic visits by families. Hospital care was 6 to 8 hours away, depending on road conditions, by overland transportation. Face-to-face consultations by inmates with their attorneys were rare. Isolation or punishment cells in this prison were extremely small and sometimes held two prisoners at a time. Despite continued pressure from national and international human rights groups, Challapalca remained in operation.

There were two serious hunger strikes in prisons during the year. Roughly 900 prisoners held on terrorism and treason charges in various facilities throughout the country staged a hunger strike from February 11 to March 13. Church officials managed to convince the prisoners to call off the strike. Human rights observers charged that the Government was slow to react in sending in medical personnel to attend to the prisoners as the strike progressed. In July a second hunger strike by nearly 90 percent of inmates in the Lurigancho prison protested harsh prison conditions and sentencing delays; it lasted 1 week. There were minor protests in various prisons throughout the year, but fewer in number than in the previous year. Two inmates were killed and 41 were injured during a violent confrontation between several cellblocks of armed inmates at Lurigancho prison in December. An investigation was pending at year's end.

Male and female prisoners were housed separately. In high-security prisons, female inmates were allowed to see their children once a week. In women's prisons, children 3 years of age and younger lived with their jailed mothers. There were also separate juvenile facilities, in which conditions were not as harsh as those in adult prisons.

The Government permitted prison visits by independent human rights observers, including the ICRC. Members of the Ombudsman's office were allowed to visit the naval facility in Callao for the first time in December 2000 and continued to visit it during the year (see Section 4). As of October, the ICRC made 140 visits to inmates in prisons, detention facilities, and juvenile detention facilities.

d. Arbitrary Arrest, Detention, or Exile.—There continued to be reports of arbitrary arrest and detention. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they occasionally violated this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable. However, the authorities sometimes disregarded this requirement. Police abuse of detainees was a problem, and the abuse usually took place at the police station just after the arrest, while the detainee was held *incommunicado* (see Section 1.c.). A 2000 law allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment. The law also permits the authorities to prohibit suspects under investigation for corruption from traveling abroad.

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions. In the past, judges denied most requests for such hearings. During the year, about 400 prisoners accused of treason related to terrorism offenses filed petitions for habeas corpus. They argued

that they were convicted by hooded or “faceless” military courts and requested new trials in civilian court. Judges accepted a few petitions and ordered that prisoners be retried in civilian court, such as in the case of Maritza Garrido Lecca, who was arrested along with Sendero Luminoso leader Abimael Guzman. The prisoners’ demands were based on Inter-American Court and Constitutional Tribunal rulings that sentences imposed by the military courts under the 1979 Constitution were illegal. However, such sentences imposed in cases brought after the 1993 Constitution was adopted remain valid (*see* Section 1.e.).

Police may detain terrorism and treason suspects for a maximum of 15 days and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. When suspects were held incommunicado, attorneys had access to them only during the preparation and the giving of sworn statements to the prosecutor.

Many detention orders remained pending against roughly 4,000 persons allegedly forced to join terrorist groups; however, in May 2001, Congress passed a law that allowed the detention orders to be changed to summonses to appear in court if requested by the person named in the order. Legal experts and NGOs reported that the law was not effective, and fewer than 50 individuals had appeared before the court to make the request, reportedly because they were distrustful of the judicial process and feared arrest.

As of December, approximately 31 percent of a total prison population of 28,403 were sentenced, according to INPE statistics. About 50 percent of the prison population remained incarcerated in Lima; of these, 56 percent had been convicted but remained unsentenced. The IACHR and the U.N. Commission on Human Rights expressed concern about the large number of unsentenced prisoners. There was no progress during the year to reduce lengthy sentencing delays.

According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averaged between 26 and 36 months, during which time suspects remained in detention. Those tried by military courts on treason charges generally did not have to wait more than 40 days for their trial; however, as trial procedures in military courts lacked full due process protections, the speed with which trials were conducted offered little benefit to the defendants. Once trials concluded, prisoners often had to wait long periods before being sentenced.

Many individuals associated with the Fujimori administration were the targets of criminal investigations. Anticorruption legislation enacted in 2000 gave judicial authorities expanded powers to detain witnesses and suspects. Many of those detained under these laws complained that the cases against them were politically motivated.

The Constitution does not permit forced exile, and the Government did not use it in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, as an institution, the judiciary was still recovering from the effects of 8 years (1992–2000) of intensive manipulation by the executive branch under the Fujimori administration. The judiciary was seen widely as the most corrupt institution in the country. It operated independently of the executive, although President Toledo expressed strong concerns about judicial decisions dismissing charges of human rights violations and corruption against members of the former Fujimori government. Judicial reform continued to be a priority of the Government.

The 4-tier court structure consisted of lower and superior courts, a Supreme Court of 30 judges, and a Constitutional Tribunal of 7 members. In 2000 Congress restored the powers of the independent National Magistrates Council (CNM) to appoint, discipline, and evaluate all judges and prosecutors who have served in their position for 7 years or more. Failure to be certified disqualified a judge or prosecutor from ever working in that capacity again. Several of the more than 100 judicial officials failing to gain certification filed complaints with the IACHR that this certification process was unfair.

Under former President Fujimori, the executive branch pressured provisional judges and prosecutors, as their employment contracts could be cancelled without cause. Subsequent investigations showed that former intelligence advisor Montesinos improperly influenced numerous judges. The majority of implicated officials either resigned or were suspended; at year’s end, some were being prosecuted.

The justice system was based on the Napoleonic Code. In civilian courts, criminal cases moved through three distinct phases. First, a prosecutor investigated cases and submitted an opinion to a first instance judge, who determined whether there was sufficient evidence to open legal proceedings. If there was, the judge conducted an investigation and, in over 90 percent of cases, determined facts, guilt or innocence, and issued a sentence. In some cases, particularly those involving violence or public officials, the law requires that the first instance judge pass the results of

the investigation to the superior court for an oral trial before a three-judge panel. Anyone convicted and sentenced by a first instance judge may appeal to the Superior Court up to the Supreme Court. All defendants had the right to be present at their trial. Defendants also had the right to counsel, although the public defender system often failed to provide indigent defendants with qualified attorneys.

There was a presumption of innocence, defendants could call witnesses, and there was a system of bail. Attorneys had unimpeded access to their clients.

Under the military justice system, judges in the lower courts had the power to sentence and were required to pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

When it resumed its mandate in 2000, one of the first acts of the Constitutional Tribunal was to remove jurisdiction over civilians accused of terrorism from military courts. By 2001 civilian courts were processing the cases of 152 of the approximately 600 civilians tried in military courts under the aggravated terrorism law, which equates terrorism with treason. Human rights groups and legal experts charged that vaguely worded definitions in the antiterrorism statutes often led judges to issue sentences disproportionate to the crimes committed. During the year, approximately 400 prisoners accused of treason related to terrorism offenses filed petitions for habeas corpus.

Following the August 2000 Military Supreme Court decision to nullify the terrorism conviction and life sentence of U.S. citizen Lori Berenson, a civilian court tried her case. In June 2001, that court found Berenson guilty of collaboration with the MRTA terrorist group and sentenced her to 20 years in prison. Berenson's appeal to the Supreme Court was unsuccessful, but the IACHR determined that Berenson had not been given a fair trial. In July the Government took the matter to the Inter-American Court; there was no indication when the Court might rule on the appeal.

In 2001 the Inter-American Court provided the Ministry of Justice a clarification of its 1999 ruling that two 1995 amnesty laws were incompatible with the American Convention on Human Rights. These exempted military officials from prosecution and were used to protect officers accused of the 1991 Barrios Altos massacre. Former intelligence adviser Montesinos faced more than 60 trials. Based on the clarification, the Government planned to bring other members of the security forces to justice in other human rights abuse cases (*see* Section 1.a.).

In June 1999, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process rights and ruled that a civilian court should have had jurisdiction. In May 2001, the Supreme Council of the Military Court invalidated an earlier military court decision against providing new trials and ordered new, civilian trials for the four Chileans. As of year's end, the oral phase of the trial was expected to begin in early 2003.

A specialized terrorism chamber of the Superior Court handled terrorism cases. The chamber is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear cases of persons with old warrants outstanding for terrorism charges (*see* Section 1.d.).

In late 2000, the Government established a new Pardons Commission, which released 32 persons from prison during the year. A total of 760 persons have been pardoned and released after being accused unjustly of terrorism since 1996. The original ad hoc Pardons Commission, with a mandate to consider applications of those who believed themselves to be accused unjustly of terrorism, ended its work on December 31, 1999. NGOs advocated that the new Commission expand its review to include all convictions and sentences rendered by military courts, but the Government had not made a decision on the matter at year's end. Approximately 1,500 cases were pending review.

In August the Government issued a supreme decree to award compensation to persons released from prison through the Pardons Commission program, as recommended by the Human Rights Ombudsman in 1999.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with or serving sentences for terrorism were not considered to be political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution requires security forces to have a written judicial warrant to enter a

private dwelling. However, there were reports that the authorities did not always observe this requirement in practice.

The Constitution provides for privacy of communication. There were few complaints that the Government violated this right.

There was no progress in the case of former army intelligence (SIE) agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations. She was charged with disobedience and being absent without permission. In 1999 the Human Rights Ombudsman recommended that the Government pardon Zanatta, that the Public Ministry investigate the wiretapping, and that Congress broaden the investigation conducted by its committee on defense. At year's end, Zanatta's case was still under investigation and scheduled to be tried in a military court.

In April Congress passed a new wiretapping law that expanded the scope of officials who are authorized to request wiretapping permits to the attorney general, district attorneys, and case prosecutors. A judge must approve each request. The Government contended that the new law should aid in fighting organized crime, but opponents protested that it lends itself to civil rights violations.

A 2000 law makes military service voluntary and prohibits forced conscription. Registration for military service remains obligatory for men aged 18 and older. The President retains the authority to decree the reestablishment of mandatory service. Since past efforts to prohibit forced conscription failed, the Human Rights Ombudsman monitored the law's implementation. As of October, the Ombudsman's office had received eight complaints of forced conscription. There were also reports that some young men from poor, rural areas were taken into military service when they went to register; they were unaware that military service was no longer mandatory. Also, in some rural areas, families reported to human rights NGOs that their sons were taken into the military before they turned 18. According to NGOs, the military explained this by saying that young men who were eager to join their ranks sometimes lied about their age.

There were no reports of forced conscription by the MRTA (most of whose surviving members are jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (*see* Section 5).

In December the Ombudsman's office reported that there were new problems involving abuses by family planning personnel during the year. There were isolated reports that women did not take the full 72 hours to consider their alternatives, as is required by law, before undergoing voluntary sterilization procedures. This was generally attributed to the fact that some women arrived at a clinic ready to give birth and requested the sterilization procedure be performed that day, rather than having to make arrangements to return to the clinic at another time.

Acting on allegations that more than 300,000 women were forcibly sterilized between 1995 and 2000 under the Fujimori administration, in October 2001, Congress directed the Commission on Health to investigate the voluntary surgical sterilization program. Earlier investigations of the allegations found that primarily during 1996–97, health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or another type of goods or services, or by not providing them with complete information about available alternatives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, some problems remained. Although the general climate for freedom of the press improved, the Government harassed opposition journalists and those formerly with the Fujimori regime, using real or threatened judicial sanctions.

The press represented a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there were 25 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There were numerous small provincial newspapers, television and radio stations. All were privately owned except for one government-owned daily newspaper, one government-owned television network, and two government-owned radio stations, none of which enjoyed a particularly large audience, although the television network covered the nation.

Several media executives remained jailed pending investigations of corruption charges stemming from media manipulation during the Fujimori regime. At the end of 2001, Eduardo Calmell, former director of the daily *Expreso*, fled the country after being released from prison on a habeas corpus writ. At year's end, two minority shareholders of TV Channel 2 and the chairman of TV Channel 10 remained in jail. Other television executives were fugitives from justice, including the major

shareholder and chairman of TV Channel 4, the major shareholder of TV Channel 5, and the chairman of the board of TV Channel 9.

In May the authorities placed Alex and Moises Wolfenson, the publishers of pro-Fujimori tabloid *El Chino* and of opposition daily *La Razon*, under house arrest on corruption charges. On June 22, a radio station broadcast a tape in which Salomon Lerner Ghitis, the chairman of the Government-owned Financial Corporation for Development and a government insider, threatened Alex and Moises Wolfenson with judicial proceedings and jail time should they continue to criticize the Government. In September a court ratified the house arrest.

On August 1, an anticorruption judge found daily newspaper *El Tio* and Editora Sport, S.A., the company that published opposition dailies *La Razon* and *El Chino*, and *El Men*, guilty of corporate embezzlement for the dealings their publishers Jose Olaya and Moises Wolfenson had with Vladimiro Montesinos.

At year's end, the Government had not yet paid the compensation that the Inter-American Court ordered in February 2001 to Baruch Ivcher for violating his nationality, ownership, due process, and freedom of expression rights. On June 20, Congress passed a law accepting an arbitration procedure to fix the amount of compensation obtained in such proceedings, and the executive approved the law on July 7.

In January President Toledo freed reporter Pedro Carranza, whom the Fujimori administration accused of being an MRTA member and jailed for 8 years. Two reporters, Juan de la Matta and Javier Tuamana, were still in prison, also accused of terrorism by the Fujimori government.

In April an anticorruption judge declared Channel 4 corporately responsible in the corruption proceedings against owners Jose Enrique Crousillat and Jose Francisco Crousillat, a decision upheld by the anticorruption criminal court in September. The Government's special prosecutor also requested that Channel 5, the *Expreso* newspaper, *Si* magazine and other formerly pro-Fujimori media be held corporately responsible in the proceedings against their owners. The authorities declared that Jose Francisco Crousillat, as well as his father, Jose Enrique Crousillat, were fugitives, which invalidated any statute of limitations on their corruption charges. In August and September, the court held daily tabloid *Expreso*, TV Channel 5, and TV Channel 4 corporately responsible for their owners' corruption charges.

Throughout the year, Genaro Delgado sought to regain control of Panamericana Television (Channel 5) through the courts, arguing that he was the majority stockholder. The officers of Panamericana Television cast the case as an affront to press freedom and accused President Toledo of intervening with the courts in Delgado's favor. The court eventually required Delgado to secure his claim by posting bond. He could not do so, and the case remained pending in the courts at year's end.

A few journalists and media outlets were reportedly intimidated during the year. According to the National Journalists Association (ANP), 60 cases of harassment were reported through September, mainly in the provinces. The majority of these incidents took the form of threats of violence; threats of judicial proceedings; and charges of slander from local politicians, police, military officials, or businessmen.

On February 4, Army specialist and Chepen military recruitment officer Cristobal Cardenas-Lazaro and photographer Ramon Bazan-Quiroz physically and verbally assaulted Hector Enrique Chavarry-Carahuatay, producer of the news program "Democracia" on the Frecuencia Popular radio station in Chepen. Those involved in the attack said it was in retaliation for Chavarry-Carahuatay's frequent news stories on corruption involving the chief of the Chepen military recruitment office, who had allegedly been soliciting bribes from citizens applying for military identification cards.

Also on February 4, producer Edmundo Gutierrez-Saldivar and host Bertha Chacon-Diaz of the program "Presencia Regional Noticias," on the Oasis radio station in Quillabamba requested a personal protection order from deputy police chief for La Convencion province, in response to recurrent death threats from Army Major Jaime Llanos-Barron. Gutierrez-Saldivar and Chacon-Diaz reported that they had been followed for several days.

On August 13, a crowd of President Toledo's supporters met the President and his wife with signs and handouts insulting opposition media, calling them "Montesinos's jackals" and accusing them of working to destabilize the Toledo administration. On August 14, anchorman Beto Ortiz showed in his Channel 2 TV program that a governmental organization published and distributed the handouts to the public at the airport.

In September *Gente* magazine alleged being pressured by the Government for having published material about the second wedding between President Toledo and his wife. On October 9, the anticorruption judge Sara Maita opened an investigation

against Gente publisher Enrique Escardo for Gente's having supported the 1996 government decision to withdraw Baruch Ivcher's citizenship.

On October 24, a group of police officers allegedly used tear gas and beat a number of reporters in front of the Congress, where they were covering an event. Four journalists were injured, one of whom was hospitalized. The Interior Minister promised an investigation, as did President Toledo when he addressed the Inter-American Press Association the next day.

The Government did not formally censor the media, although fears of generating unwelcome government attention encouraged journalistic self-censorship. The Government did not censor books, publications, films, or plays.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the authorities generally respected this right in practice. The police used tear gas and occasionally force to disperse protesters in various demonstrations during the year. The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (Prefect) about the kind of demonstration and its location. Demonstrations could be prohibited for reasons of public safety or health. Municipal authorities routinely granted permission for demonstrations.

Political rallies were unimpeded throughout the regional elections campaign process. There were two incidents of violence targeted at members of the National Unity Party in the Cajamarca area. An independent, rival candidate was arrested for the murder of a National Unity mayor from the Cajamarca area (*see* Section 1.a.).

Although most demonstrations were peaceful during the year, protests in Arequipa, Tarapoto, Aguatia and other areas turned violent with rock-throwing, tire-burning, looting, and other damage to public and private property. In June the Government declared a 30-day state of martial law in Arequipa following violent and destructive citywide protests against energy-sector privatization plans. Similar although smaller and less destructive protests in support of Arequipa's privatization protest took place June 17 and 18 in the southern cities of Moquegua, Juliaca, Cusco, and Tacna, where injuries and property damage were reported. In October a prosecutor in Arequipa accused 24 police officers with killing Fernando Talavera Soto and Edgar Pinto Quintanilla, who died after being hit with tear gas canisters during the Arequipa protest (*see* Section 1.a.). The officers were charged with negligent homicide; no trial had begun at year's end.

On July 17, protests by coca farmers turned violent as they ransacked an antinarcotics NGO's office and then burned equipment and vehicles in Aguaytia. Other groups blocked major highways with rocks and debris during the year to protest the Government's financial policies. According to human rights observers, the police generally maintained order during the year without using excessive force.

There were over 3,000 protests by workers asking for higher wages and by disgruntled citizens pressing various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters. Police arrested some protestors during the year for violent or destructive offenses.

The Constitution provides for freedom of association, and the authorities generally respected this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church received preferential treatment from the State. The Constitution establishes the separation of church and state, but it also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The Catholic Church and Catholic clergy received preferential treatment and tangible benefits from the State in the areas of education, taxation of personal income, remuneration and taxation of institutional property. Teaching about Roman Catholicism in primary and secondary schools was mandatory. By law, the military could hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths were free to establish places of worship, train clergy, and proselytize. Religious denominations or churches were not required to register with the Government or apply for a license. Conversion from one religion to another was allowed, and missionaries could enter the country and proselytize.

The Freedom of Conscience Institute (PROLIBCO), an NGO that favored strict separation between church and state and opposed the preferential treatment accorded to the Catholic Church, claimed that the Government discriminated against

non-Catholic groups by requiring payment of import duties and a sales tax on Bibles brought into the country. In May 2001, the Jehovah's Witnesses claimed that the Government denied them tax exemption for imported Bibles and other religious educational material. In April they filed two legal actions to uphold their right as a non-profit educational entity to be exonerated from payment of duties. In May a Superior court ordered the temporary suspension of the surety fees, but according to PROBLICO, by year's end the court had not made a final ruling in this case.

The Ministry of Education required all primary schools, both public and private, to follow a set Catholic religion course. Parents who did not wish their children to participate in the mandatory religion classes had to request an exemption in writing to the school principal. According to PROBLICO, there were some complaints that requests for exemptions were denied during the year. Non-Catholics who wished their children to receive a religious education in their own faith were free to organize such classes, at their own expense, during the weekly hour allotted by the school for religious education, but had to supply their own teacher.

PROLIBCO objected to the requirement to teach the Catholic religion in the school curriculum. It claimed that the alternatives available to non-Catholic parents violated the constitutional protection of privacy and confidentiality of one's convictions and beliefs. PROLIBCO supported an initiative by two nonsectarian (and antireligious) organizations, the Lima-based Movimiento Arreligioso Peruano and Masa Peru, to eliminate from the Constitution any reference to the Catholic Church. In addition, PROLIBCO was seeking to collect enough signatures to ask the Constitutional Court to rule on the 1980 Concordat signed with the Vatican that granted special status to the Catholic Church.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police could check travelers at control points throughout the country. There were no other political or legal constraints on foreign travel or emigration. Repatriates, both voluntary and involuntary, were not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

Sendero Luminoso occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley and the Apurimac and Ene River Valleys.

Political violence in the 1980s and early 1990s resulted in the internal displacement of hundreds of thousands of persons and massive migration. Despite government and NGO efforts, many internally displaced persons (IDPs) lacked basic documentation, such as birth certificates and voter registration cards. The Government's program for the Repopulation and Development of Emergency Zones (PAR) provided documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card.

The law, which was updated in December, includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution at home and sought asylum abroad. As of December, the Catholic Migration Commission reported that 83 individuals had requested refugee status. There were 58 persons who transited another country to ask for first asylum. The Government recognized 10 individuals as new refugees, and there were 784 refugees in the country. Refugees were allowed to live and work without restrictions and may apply for naturalization. The status of refugees was reviewed annually.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right through free and fair elections.

In July 2001, President Alejandro Toledo assumed the presidency following a peaceful transfer of power through generally free and fair national elections held in

April and June 2001. Voting was by secret ballot and mandatory for citizens between the ages of 18 and 70; however, members of the armed forces and the police, as well as felons, were ineligible to vote. As of December, Congress was considering a bill that would give members of the armed forces and the police the right to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

In 2000 the 120-member Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide better geographic representation. Following the April 2001 elections, the party breakdown in Congress was 45 seats, Peru Posible; 28 seats, APRA; 17 seats, Unidad Nacional; 13 seats, Decentralized Parliamentary Union; 11 seats, Independent Moralizing Front (FIM); 3 seats, Cambio 90-Nueva Mayoria; and 1 seat each for Solucion Popular, Renacimiento Andino, and Todos Por La Victoria. The length of a term in Congress is 5 years. The legislature functioned independently from the executive.

The Constitution establishes three bodies to administer elections: The National Board of Elections (JNE); the National Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers elections and the RENIEC issues election identity documents.

On November 17, over 12 million citizens cast ballots for regional and municipal officials. Regional governments did not exist in the political structure prior to this election. Election observers, including the Organization of American States, and the media agreed that the balloting and counting of votes were transparent, free, and fair. The new regional government officials were scheduled to take office in January 2003.

The November 17 elections were generally peaceful, although more than 40 violent incidents were reported, primarily in the interior of the country, including a confrontation between protesters and soldiers guarding voting materials that resulted in two deaths. A heavy police and military presence helped ensure order on election day. On election day, Sendero Luminoso guerrillas fired on a police unit in La Libertad department, but no one was injured. On November 15, Sendero Luminoso elements killed a PNP captain in a confrontation near Ayacucho.

In July 2001, the Judicial Branch reopened the investigation into the falsification of over 1 million voter signatures that occurred during the 2000 elections. The authorities brought charges against Jose Portillo, former chief of ONPE, for election fraud in relation to the falsified signatures. As of December, Portillo remained under house arrest and an investigation was underway.

Also in July 2001, Congress modified the election law. The percentage of signatures required for the registration of a new political party was reduced from 4 percent to 1 percent of the voters who participated in the past election. The modified law prohibits reelection of a president to successive terms.

In June Congress voted to suspend Congresswoman Martha Chavez from her congressional duties following allegations of corruption. She was a member of Fujimori's Cambio 90 party. Although not removed from Congress, Chavez was barred from participation in congressional activities. Her immunity from judicial proceedings was lifted as a result of the vote, and a trial was pending at year's end.

Women and some minorities participated actively in government and politics. A 2000 law states that at least 30 percent of each party's ballot for congressional elections, and at least 25 percent of candidates for municipal elections, must be from each sex. There were 21 women in the 120-member Congress. There was 1 woman in the 16-member Cabinet, the Attorney General was a woman, and there was 1 woman on the Supreme Court.

Traditionally, most leadership positions in government were held by an elite minority of European descent. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. However, it was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. One member of the Aymara indigenous group served in Congress and was the head of the Committee for Indigenous and Afro-Peruvian Affairs until July.

The Afro-Peruvian minority, unofficially estimated to be 3 to 5 percent of the total population, was not represented in the leadership of the executive branch of the Government. There were three Afro-Peruvian members of Congress.

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

The Government permitted numerous NGOs dedicated to monitoring and advancing human rights to operate freely; unlike in previous years, these groups reported no harassment or other attempts by the authorities to hinder their operations.

Most human rights NGOs were independent and generally objective. The National Coordinator for Human Rights (Coordinadora) was an umbrella organization for more than 60 human rights NGOs. The Coordinadora sought to avoid politicizing its positions on human rights issues, although its constituent members could do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operated independently or on the margins of the Coordinadora.

The human rights community reported that the Toledo administration continued to work toward strengthening government-civil society relations. Toledo named former human rights advocate Gino Costa as Minister of Interior in July. Several other high level officials at the Ministry of Interior had strong human rights backgrounds. Unlike in previous years, government officials did not accuse NGOs of being overprotective of criminals and terrorists to the detriment of victims. There were some government complaints that the IACHR was overprotective of terrorists.

According to COMISEDH, military commanders occasionally did not grant access to military facilities to human rights observers. In December 2000, the Human Rights Ombudsman's office was granted access to the Callao naval base for the first time. The Ombudsman's office continued to have access to the prison at the Callao naval base, as well as other facilities during the year (*see* Section 1.c.). Not all government facilities provided access to the public; NGOs may work through the Ombudsman's office for information regarding a military facility.

The Office of the Human Rights Ombudsman received funds from the Government and foreign governments and was considered an independent and effective institution. Congress votes to select the Ombudsman, who must receive at least a two-thirds majority of votes and serves a 5-year term. The Ombudsman's office had investigative independence and the ability to inform the public of its conclusions and recommendations. However, the office had no enforcement mechanism other than moral suasion. The Ombudsman's office issued reports throughout the year on a variety of issues including forced disappearance, a compendium on legislation for victims of terrorism, family planning services offered by the Ministry of Health, and an annual report on the overall human rights situation.

At year's end, there was an interim Ombudsman. The former Ombudsman left office in 2000 to run for president in the April 2001 elections. On April 30, Congress tried to elect a new Ombudsman, but the vote failed to produce a required two-thirds majority. Human rights, political, and civil society leaders criticized Congress for its inability to come to consensus, thereby placing the institution in jeopardy. To improve the odds that Congress will be able to reach a consensus in the future, in September Congress changed the Ombudsman's law to provide that Congress may vote to invite an individual to run for Ombudsman, if at least 20 percent of Congress (24 members) vote to support that person's candidacy. Congress anticipated that with an initial backing of 20 percent of congressional members, a candidate would have a better chance of receiving the required two-thirds majority (80 votes).

In February 2001, the country returned to the jurisdiction of the Inter-American Court of Human Rights. In July 1999, the Fujimori government withdrew from the Court after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of aggravated terrorism and treason by a military tribunal (*see* Section 1.e.).

In August the IACHR reported that the Government had not complied with Commission recommendations as it had promised to do in 159 cases of human rights violations from past years. In August the IACHR's Rapporteur for Peru visited the country to evaluate the Government's progress and was to present the findings of that visit before the Commission later in the year.

The Truth and Reconciliation Commission, established by former President Paniagua and strengthened by President Toledo, began work in November 2001. The commission has a mandate to analyze the political, social, and cultural conditions that fostered an era of violence between May 1980 and November 2000, during which more than 25,000 persons were killed and—according to the Ombudsman in May—6,089 persons disappeared. The commission also is to clarify abuses of human rights committed by terrorists and the State; locate the victims or their remains; determine individual or institutional responsibility for these violations; propose a system of reparations for the victims' families; recommend institutional, legal, and educational reforms; and propose initiatives designed to advance peace, the rule of law, national reconciliation, and democracy. The commission has no authority to prosecute alleged perpetrators. It collected testimony from 14,000 victims, victims' families, and other witnesses. The commission held dramatic and emotional public hearings during the year where survivors and family members of murdered or disappeared victims told of the violence inflicted by government and paramilitary

forces. On July 1, the Government announced that it had extended the commission's working period by 5 months, until July 2003.

There were no reports of Sendero Luminoso hampering the work of human rights observers.

Section 5. Discrimination Based On Race, Sex, Disability, Language, Or Social Status

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on ethnic origin, race, sex, language, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted, although progress was made in a number of areas.

Women.—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls was a chronic problem. Such abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims. A National Institute of Statistics and Information (INEI) survey reported that during 2000, 34 percent of women were battered by their partner, and that 19 percent of those women were battered frequently. The survey reported that close to 43 percent of poor women were battered. The Ministry of Women and Social Development (MIMDES) and NGOs agreed that many domestic abuse cases were never reported. Although official figures for the number of arrests and convictions in abuse cases were unavailable, NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint. In addition, legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. In 2000 Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory reconciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victims' needs. In January 2001, Congress approved a law that states that reconciliation sessions between the abuser and victim are not required in cases of domestic violence. A 2000 law expanded the definition of domestic violence to include sexual violence, and to include all intimate partners whether or not the victim and perpetrator had ever lived together.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. As of August, MIMDES operated 36 centers staffed entirely by women, bringing together representatives of various government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might need recourse. As of August, these centers had assisted about 20,338 victims of domestic violence and abuse. The monthly average of reported abuse cases was approximately 2,500. MIMDES continued its public education campaign to sensitize government employees and the public to domestic violence. With NGO assistance, MIMDES educated police about domestic violence and trained officers in all police stations in processing domestic violence cases. The Human Rights Ombudsman's Office continued to complain that officers reacted indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints.

According to the Human Rights Ombudsman, many rape victims complained at court-appointed medical examiners inappropriately delved into their sexual histories. The victims accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. Many victims were afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimps.

Sexual harassment was a problem, according to the Ombudsman's office. The law against sexual harassment does not provide for sanctions or sentencing but does give victims of sexual abuse the right to abandon their job and subsequently sue their abuser. Women's rights advocates contended that the law was completely ineffective, noting that it had never been applied in court. In October the Congressional Commission for Women and Social Development approved a bill that would prohibit sexual harassment in the public sector (military, police, etc.) and punish the offense.

In December the Ombudsman's office reported that there were new problems involving abuses by family planning personnel during the year (*see* Section 1.f.).

Also in December, the Ombudsman's office reported that it had begun documenting cases of failure by the Ministry of Health to provide voluntary sterilizations to clients who sought such services at their facilities. The Ministry of Health criticized the Ombudsman's office for this statement.

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited; however, they continued to occur in practice. In June 2001, the Constitutional Tribunal declared unconstitutional a 1998 law that stripped 3,000 policewomen of their ranks as officers. The law prohibits the arbitrary firing of pregnant women.

Traditional assumptions and misconceptions often impeded access by women to leadership roles in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Children.—The Government provides free, compulsory education through secondary school. Education was generally available throughout the country, but there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books posed problems for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and adolescents worked during daytime hours rather than attend school. Approximately 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never attended school or abandoned their education. Among children and adolescents who lived in poverty or extreme poverty, the corresponding figures were 51 percent for children aged 5 to 9 years old and 50 percent for children aged 10 to 14. School nonattendance was highest in rural and jungle areas and affected girls more than boys. Pregnant school-age girls had the right to begin or continue attending school.

An INEI survey conducted during 2000 estimated that nearly 70 percent of the country's 10 million children under 18 years of age lived in poverty; of them, roughly 20 percent lived in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 39 per 1,000. According to INEI, approximately 75 percent of children not living in poverty attended school through the high-school level, whereas only 43 percent of children living in poverty reached high school. Children living in poverty averaged only 4.5 years of education compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attained university-level education, compared with 25.6 percent of children who lived above the poverty line.

MIMDES's Children's Bureau coordinated child and adolescent related government policies and programs. At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 55 percent of these offices, while schools, churches, and NGOs ran the remaining 45 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices were binding legally and had the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children were serious problems. The INEI survey showed that an estimated 41 percent of parents abused their children. In rural areas, this figure increased to 55 percent. In 2000 the Municipal Ombudsman's Office for Children and Adolescents for Lima and Callao documented 586 sexual assaults against children 5 years of age and under; 2,937 against children aged 6 to 12; and 5,935 against children aged from 13 to 17. The report confirmed that 70 percent of the assaults occurred in the home by a relative or someone known to the victim and the victim's family. According to NGOs, many abuse cases were never reported to the authorities, since many persons believed that such problems belong within the family and should be resolved privately. MIMDES's Women's Emergency Program worked to address the legal, psychological, and medical problems facing women and children who were victims of violence.

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports of child prostitution.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, was often gang-related. In 2001 the Government rescinded

laws that allow 16- to 18-year-old criminal gang members to be prosecuted in military courts and sentenced to a minimum of 25 years in adult prisons (*see* Section 1.e.).

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

The National Initiative on the Rights of the Child was the largest NGO of its kind and coordinated the work of 27 groups concerned with the problems of children throughout the country.

Persons with Disabilities.—The Constitution provides that persons with severe disabilities have “the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security.” Legislation that established the National Council for the Integration of People with Disabilities (CONADIS) specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman’s office. Congress passed a resolution designating 2003 as the “Year of the Disabled,” to raise awareness about problems faced by disabled citizens. In practice, however, the Government devoted little attention and resources to persons with disabilities, who remained economically and socially marginalized.

The 1993 census counted 288,526 persons with disabilities, or 1.3 percent of the population; however, in 2001 the Ministry of Health and the Pan American Health Organization estimated that the actual number of persons with disabilities could be as high as 3 million, or 13.8 percent of the population. CONADIS estimated that between 10 and 13 percent of the population was disabled.

The Government did not allocate sufficient funds to make genuine integration of persons with disabilities into the economy possible. In 2001 Congress increased the annual budget allocated to integrate persons with disabilities into the economy from \$250,000 to \$457,000 (875,000 to 1.6 million soles). Although the law prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recorded versions of the Constitution, which would facilitate the participation of persons with disabilities in the basic processes of democracy and citizenship. However, the Human Rights Ombudsman reported that a program to facilitate voter education and access for persons with disabilities in the 2001 elections was successful.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Among those who did, many were channeled into occupations traditionally assumed to be “suitable” for persons with disabilities, such as telephone switchboard operation and massage, in the case of the blind. Some private companies initiated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start up businesses. Nevertheless, such persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a provision that the National Judiciary Council has interpreted to apply to all persons with disabilities.

Indigenous Persons.—The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous persons faced pervasive societal discrimination and social prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the 1993 Constitution and subsequent implementing legislation are less explicit about the inalienability and unmarketability of native lands than earlier legislation. Pervasive discrimination and social prejudice intensified feelings of inferiority and second-class citizenship. Many indigenous persons lacked basic documents such as a birth certificate or a voter’s registration card that normally would identify them as full citizens and enable them to play an active part in society.

Many other factors also contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous popu-

lation and the centralization of government in Lima further limited the access and participation of indigenous people in society.

The native population of the Amazon region, estimated at between 200,000 and 300,000 persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some nonindigenous tenant by right of tenure. However, the marketing and sale of the lands are no longer prohibited.

Indigenous groups continued to resist encroachment on their native lands by oil exploration and drilling interests. Many indigenous persons did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the State; this problem led to conflicts between mining interests and indigenous communities. Indigenous groups asserted that such encroachment often can damage the environment and negatively affect the health of the native people. For example, the 45,000 Aguaruna and the Huambisa, who inhabit an area near the border with Ecuador, are only two of many indigenous groups that complained about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 members of the Achuar people lived in 36 communities, only 12 of which had title to their land.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, recognized as official languages. They are ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin.

The Government's Indigenous Affairs Commission has a mandate to coordinate state services to meet the needs of indigenous people. The Commission, which is chaired by MIMDES, has among its members officials from a variety of relevant ministries as well as representatives of the indigenous peasant population in the highland and coastal areas, the native population of the Amazon jungle, and the Afro-Peruvian community. In 1999 Congress created an Indigenous Affairs Committee, which served to address the needs of the indigenous communities. In August Congress modified the committee's mandate to include indigenous peoples from the Amazon region, and changed its name to the Amazon, Indigenous, and Afro-Peruvian Affairs Committee.

President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry.

The two principal NGOs that represented the interests of the native population of the Amazon region were the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSESEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body that coordinated the activities of the country's indigenous population. CONAP believed that mining and other development operations were inevitable and, therefore, wanted native communities to share the benefits. AIDSESEP opposed territorial encroachments. Both AIDSESEP and CONAP were critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or otherwise making use of it.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. The terrorist group continued to coerce indigenous peasants into joining its ranks and to demand war taxes. In December the Government announced that the police would attempt to rescue the members of at least 200 families, primarily from the Ashaninkas indigenous group, who were believed to be held captive by Sendero Luminoso forces in the central jungle areas of Junin and Ayacucho. The families were being forced to work in the cultivation of illegal coca leaves, provide lookout protection, and to prepare meals and perform other basic chores. Living and working conditions for the Ashaninkas in the encampment areas were reported as inhumane.

National/Racial/Ethnic Minorities.—In December 2000, Congress passed legislation that made racial discrimination a crime, with penalties varying from 30 to 60 days of community service. For public officials the sentence is between 60 and 120 days of community service; violators also were disqualified from holding public office for 3 years. The country's population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tended to be concentrated along the coast, often faced discrimination and social prejudice, and they were among the poorest groups in the country.

On April 25, the Government's Indigenous Affairs Commission expanded to include Afro-Peruvians. In August Congress changed the name of its committee addressing the needs of the indigenous communities in the country, including Afro-Peruvians, to the Amazon, Indigenous, and Afro-Peruvian Affairs Committee.

Afro-Peruvians generally did not hold leadership positions in government, business, or the military; however, there were three Afro-Peruvian members of Congress. Both the navy and the air force were believed widely to follow unstated policies that exclude blacks from the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often found discreet ways to relegate blacks to low-paying service jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law has not deterred discriminatory practices. Afro-Peruvians were often portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although citizens of Asian descent historically suffered discrimination, their social standing improved in recent years. Many persons of Asian descent held leadership positions in business and government.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the law provide for the right of association; however, worker rights advocates claimed that the laws were overly restrictive. About 5 percent of the formal sector workforce of 8.3 million belonged to organized labor unions. There were approximately 12 million economically active persons in the country, of which about 49 percent had permanent employment, 43 percent were underemployed, and 8 percent were unemployed. Government and labor estimates showed that well over half of all workers participated in the informal sector of the economy or were underemployed in the formal sector.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or nonmembership. In the past, labor advocates asserted that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, failed to protect the rights of workers to form unions. Labor advocates claimed that many workers were reluctant to organize due to fear of dismissal. In December Congress passed a law that addressed some of the International Labor Organization's (ILO) primary objections to the 1992 labor law. The new law allows apprentices to join unions, reduces the number of individuals required to form a union, recognizes the right to strike, and allows for collective bargaining by sector.

In recent years, the ILO criticized a provision that permitted businesses to employ up to 30 percent of their workforce from workers between the ages of 16 to 25 in apprenticeship-type jobs; workers in this age bracket were precluded from union membership and participation. To address this complaint, a 2001 law reduced to 10 percent the percentage of employees that a company may employ as apprentices between the ages of 16 and 25.

In December 2000, then-President Paniagua established a tripartite National Labor Council for the Government, workers, and business to address labor problems. In September 2001, President Toledo reinstated the National Labor Council and opened two regional councils, one in Arequipa and one in Cusco, to address labor issues unique to each region. The Council served to maintain a dialog between labor, business, and the Government.

Unions represented a cross section of political opinion. Although some unions traditionally were associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. Union leaders who ran for Congress in the 2001 elections did so without official union sponsorship. Nevertheless, some union activists who ran for public office received unofficial backing from their unions.

The new law passed in December addressed some of the ILO's objections to former legislation on collective bargaining. In the past, the main union confederations criticized the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association and the right of workers to bargain collectively. Unions also complained that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, companies sometimes offered financial compensation instead of reinstatement as the legislation allows. Although the law prohibits companies from firing workers solely for involvement in union activities, this provision was not enforced rigidly. In November 2000, the ILO's Committee of Freedom of Association recommended that the Government enforce legislation protecting workers

from dismissal on account of membership in a union or participation in union activities. In the first such action by the judiciary, in September the Constitutional Tribunal ruled that a major company, Telefonica, had to rehire over 400 workers suspected of being fired for their union affiliation.

In July Congress passed a law regarding collective dismissals that reinstated workers' rights in this area. In December the Ministry of Labor published a list of 7,156 names of former public sector employees who stand to benefit from the new Collective Dismissal Law. Additional names of approximately 5,850 eligible beneficiaries were to be released in 2003. The workers were among those deemed to have been fired unjustly during the Fujimori administration.

There were no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belonged to international labor organizations, the international trade secretariats, and regional bodies.

b. The Right to Organize and Bargain Collectively.—The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

Union officials must be active members of their union, but the number of individuals each union may designate as "official" is limited, as is the amount of company time they may devote to union business. There were no legal restrictions that prevented unions from negotiating for higher levels of worker protection than the baseline standards provided for by law. There was no legal protection against employer interference in trade unions.

A union had to represent at least 20 workers in order to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams could not exceed the size of union teams, and both sides were permitted to have attorneys and technical experts present as advisers.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided that they give their employees at least 15 days' notice of such changes. However, worker rights advocates alleged that, in practice, few employers respected this provision. If workers rejected an employer's proposed changes, the Ministry of Labor was required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances were upheld in full or in part, employers were required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition, union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. To address this concern, Congress passed a law in 2001 that restricts the number of temporary workers hired to 20 percent of a company's work force. Some labor advocates continued to claim that some companies did not comply with the law. Employers denied that they were biased against unions, and argued that the labor stability provisions of the legislation made long-term commitments to workers too expensive.

The new labor law passed in December addressed some of the ILO's objections to the 1992 labor law concerning the right to strike, including a requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike.

There were numerous labor strikes, demonstrations, and work stoppages during the year, most of which were peaceful. The Government took no actions to prevent the strikes or to reprimand participants. There were confrontations between union-affiliated protesters and police who were charged with controlling the large crowds. In a September incident, a scuffle broke out between two rival labor organizations, but no serious injuries or property damage occurred. No abuses were reported when the police removed roadblocks set up by protesters.

The law restricts unions that represent workers in public services deemed essential by the Government from striking. However, there were strikes during the year by public sector workers.

There were four export processing zones (EPZs). Special regulations aimed at giving employers in EPZs and duty free zones a freer hand in the application of the law provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones had difficulty unionizing. Worker rights advocates acknowledged that these few zones did not contribute substantively to labor's unionizing difficulties.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. According to MIMDES and the Ministry of Labor, there were no reports of forced child labor. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it seem to have addressed the problem. NGO sources and the ILO reported in 1999 that mechanization largely had replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry.

Sendero Luminoso held indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (*see* Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Child and Adolescent Code of 1992 governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor was a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs if they obtain special permission from the Ministry of Labor and certify that they also are attending school. In certain sectors of the economy, higher minimums are in force: age 14 in agricultural work; age 15 in industrial, commercial, or mining work; and age 16 in the fishing industry. As of August, the Ministry had granted 912 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The Ministry approved 1,795 of these permits in 2001. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. As many as 1.9 million children worked primarily in the informal sector to help support their families. Of this total, NGOs estimated that some 600,000 children were under the age of 12.

Human and labor rights groups criticized the modification of the Child and Adolescent Code, passed in August 2000, that maintained the minimum age for work at 12 years old (with government permission), and argued that it contradicts international guidelines on the minimum age of child workers.

Many children were pressed to help support their families from a very early age by working in the informal economy, where the Government did not supervise wages or working conditions. Other children and adolescents worked either in formally established enterprises or as unpaid workers at home. There were some reports of child prostitution (*see* Section 5).

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for children aged 12 through 14, and 6 hours for children aged 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions were violated routinely in the informal sector. Child and adolescent laborers worked long hours in the agricultural sector. Other children reportedly were employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, loading and unloading produce in markets, brick making, coca cultivation, or work in stone quarries and fireworks factories, among others. Some child and adolescent labor tended to be seasonal.

Firms found guilty of violating child labor laws can be fined and have their operations suspended. The Ministry of Labor's inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry reported that there were a total of 170 labor inspectors, of which 120 worked in Lima. These inspectors conducted all labor inspections, both for adults and children. Labor inspections were primarily con-

ducted in the formal sector. The National Police and local prosecutors exercised law enforcement authority.

e. Acceptable Conditions of Work.—The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a “just and sufficient” wage to be determined by the Government in consultation with labor and business representatives, as well as “adequate protection against arbitrary dismissal.”

In March 2000, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$128 (450 soles), which was not considered sufficient to provide a decent standard of living for a worker and family. The Government estimated the poverty line to be approximately \$45 (157 soles) a month per person. However, this figure varied from region to region. Actual figures from INEF's 2001 survey showed the poverty line for Lima at \$75 (260 soles) a month per person, compared to \$43 (147 soles) for the rural jungle. According to some estimates, as much as half the work force earned the minimum wage or below, because such a great proportion worked in the informal sector, which was largely unregulated. The Ministry of Labor was responsible for enforcing the minimum wage.

A 2001 law increased the Labor Ministry's ability to enforce compliance with laws requiring businesses to pay social security and other benefits.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace, although discrimination continued to be a problem in practice. A Supreme Decree states that all workers should work no more than 8 hours per day; however, labor advocates complained in recent years that workers were pressured to work longer hours to avoid dismissal. In February President Toledo signed into law a bill that requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. Labor, business, and the Government reported that the majority of companies in the formal sector were complying with the new law.

While occupational health and safety standards exist, the Government lacked the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. In September 2001, the Minister of Labor announced that 80 percent of the companies inspected were found to be in compliance with labor laws. The compliance estimate remained consistent throughout the year. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the Government sanctioned them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

f. Trafficking in Persons.—A 1999 law prohibits trafficking in persons and alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment were enforced and could also be used to sanction traffickers in persons. There were no programs to educate vulnerable groups about the dangers of trafficking or to assist victims.

While there were no other reports of trafficking in persons, child prostitution was a problem (see Section 5).

There were two reports in 2001 that persons were trafficked from the country. Early that year, three women in their twenties were forced into prostitution in Korea after they were ostensibly hired as domestic workers. In May 2001, a Peruvian intermediary contracted three men to work as mechanics in Abu Dhabi. The men alleged that once they arrived in Abu Dhabi, their employer took away their passports and never paid them for work performed over several months. With assistance from a foreign consulate in Abu Dhabi and an NGO, the men were repatriated in October 2001.

SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy, a federation, and a member of the Commonwealth of Nations. The Constitution provides the smaller island of Nevis considerable self-government under a premier, as well as the right

to secede from the Federation in accordance with certain enumerated procedures. The Government consists of a prime minister, a cabinet, and a unicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In elections in March 2000, Prime Minister Denzil Douglas's St. Kitts and Nevis Labour Party won all 8 St. Kitts seats of the 11 seats in the legislature, and Douglas remained Prime Minister. In elections in Nevis on September 7, 2001, Premier Vance Amory's Concerned Citizens Movement (CCM) won four of the five seats in the Nevis Assembly. The judiciary was generally independent; however, intimidation of witnesses in high profile, drug-related cases has been a problem.

The security forces consisted of a small police force, which included a 50-person Special Services Unit that received some light infantry training, a coast guard, and a small defense force. The forces were controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The mixed economy was based on sugar cane, tourism, and light industry. The country's population was approximately 46,000. Most commercial enterprises were privately owned, but a state corporation owned the sugar industry and 85 percent of arable land. In 2001 sugar production increased by 30 percent, but export earnings remained constant due to exchange rate fluctuations; economic activity slowed significantly in the manufacturing and construction industries. The unemployment rate was estimated at 5 percent. Preliminary estimates for real economic growth suggested a 2 percent decline for the year.

The Government generally respected citizens' human rights; however, there were problems in some areas. Poor prison conditions, apparent intimidation of witnesses and jurors, government restrictions on opposition access to government-controlled media, and violence against women were the principal problems. Saint Kitts and Nevis was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits the use of torture or other forms of inhuman or degrading treatment or punishment, and the authorities generally observed this prohibition in practice. However, there were occasional allegations of excessive use of force by the police, particularly during the annual Carnival celebration and at other special events.

The police force continued to conduct its own internal investigation when complaints were made against its members. There were 11 complaints filed in 2001, 5 of which addressed police searches based on warrants (*see* Section 1.f.); no more recent information was available.

Prison conditions were overcrowded, and resources remained limited. The prison on Saint Kitts, built in 1840, was designed to accommodate 60 inmates but was renovated to increase capacity and housed over 140 prisoners; some prisoners slept on mats on the floor. A prison on Nevis housed 30 inmates. In both prisons pretrial detainees were segregated from convicted prisoners. Female inmates were segregated from male prisoners, and juveniles were segregated from adult prisoners. Corporal punishment is legal; a court can order that an accused person receive lashes if found guilty.

The Government permitted prison visits by independent human rights observers. In addition, the Ministry of National Security appointed "visiting justices," who were volunteers that oversaw the treatment of prisoners. The prison staff periodically received training in human rights.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. The law requires that persons detained be charged within 48 hours or be released. If charged, the police must bring a detainee before a court within 72 hours. Family members, attorneys, and clergy were permitted to visit detainees regularly.

Neither the Constitution nor the law prohibit forced exile, but the Government did not use it in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, intimidation of witnesses and potential intimidation of jurors in high

profile, drug-related cases was a problem. The Government did not take any concrete steps to protect witnesses, judges, and jurors, although it continued to explore the possibility of a program to do so through the Caribbean Community.

The court system includes a high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom. Free legal assistance was available for indigent defendants in capital cases only.

The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements generally were observed. At year's end, there were 49 persons in "remand" (detention pending trial or further court action). The length of remand varied according to offense and charges; persons may be held for days, weeks, or months. There is no system of parole, although there was public discussion about starting a parole system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. The law requires judicially issued warrants to search private homes. The police received complaints during the year regarding police improprieties in the process of investigating reported crimes, such as taking personal photographs of a victim and unnecessarily exposing a victim by bringing potential suspects to the victim's home for identification. The authorities took disciplinary action against one officer involved.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these provisions in practice; however, there were allegations during the year that the ruling party limited opponents' access to the media.

These concerns were muted somewhat by the grant of broadcast licenses to several independent radio stations.

There were three independent weekly newspapers; in addition, each of the major political parties published a weekly or biweekly newspaper. The publications were free to criticize the Government and did so regularly and vigorously. International news publications were readily available.

The Government privatized the Government-owned radio station, although the Government continued to appoint three of its five board members. Three other stations had been in operation since before the Labour Party came into office in 1995. In addition, three privately owned radio stations received licenses and began operating in 2001–02. A radio station in Nevis that operated on AM since 1989 received an FM license but was not yet operating on the new frequency at year's end.

The opposition People's Action Movement (PAM) party alleged that the Labour Party blocked PAM's access to the broadcast media through its control of the national television and radio broadcasting facilities. However, the PAM acknowledged that it had increased accessibility to the media since several additional radio stations were granted licenses.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly and for the right of association, and the Government generally respected these rights in practice.

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

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

No formal government policy toward refugee or asylum requests existed. The issue of provision of first asylum did not arise during the year. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government by peaceful means, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage. A multiparty political system existed, in which political parties were free to conduct their activities; however, an opposi-

tion party alleged that the ruling party restricted access to the media (*see* Section 2.a.). All citizens 18 years of age and older may register and vote by secret ballot. Despite some irregularities, orderly general elections were held in 2000, and Nevis elections were conducted peacefully in September 2001.

The Legislative Assembly has 11 elected seats: 8 for St. Kitts and 3 for Nevis. The Labour Party held all eight St. Kitts seats in the legislature; opposition parties held the other three seats. The PAM lost its one seat in the 2000 election. In addition to the 11 elected Members of Parliament, there were 3 appointed members called Senators. The Governor General appoints the three Senators, two on recommendation of the Prime Minister and one on the recommendation of the Leader of the Opposition. The island of Nevis has considerable self-government, with its own premier and legislature. In the 2001 Nevis elections, Premier Amory's CCM won four of the five seats in the Nevis Assembly.

In accordance with its rights under the Constitution, in 1996 the Nevis Assembly initiated steps towards secession from the Federation, the most recent being a referendum in 1998 that failed to secure the required two-thirds majority for secession. Following the referendum, the Government established a Constitutional Commission to review the arrangements between the two islands. In October when a Select Committee of the National Assembly reviewed the commission's report, the CCM again raised the issue of secession. The Government suggested that the issue be handled in the constitutional reform process and proposed granting greater autonomy to the Nevis island government and the Nevis Assembly.

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the former opposition party PAM alleged widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be PAM supporters. In the case of one person whom the PAM leadership claimed had not been paid, the Government asserted that this individual, while a Minister in the Government, received fees for legal services from two government institutions and that, therefore, it was entitled to offset her pension by the amount of fees received. The matter was before the courts at year's end.

The PAM claimed that electoral reform is needed to correct inequities and to prevent irregularities in voting, asserting that in the last election, the Government unduly influenced voters by providing airfare and hotel accommodations to overseas citizens willing to return to vote. The PAM also claimed that 17-year-olds voted even though the law requires a minimum age of 18, and that some people voted more than once by voting in different jurisdictions. Citing these irregularities, the PAM proposed that photographic voter identification cards be issued, and the existing register of voters nullified. The PAM also recommended changes to the electoral commission to correct what it perceived as a bias toward the party in power. The PAM criticized the Government's failure to appoint any PAM representatives to the Select Committee of the National Assembly on Constitutional Reform, which will take up matters of electoral reform.

There were no impediments in law or in practice to the participation of women in leadership roles in government and politics. There were 2 women in the National Assembly, 1 woman in the Cabinet, 3 of 4 magistrates were women, the court registrar was female, and 5 of 11 permanent secretaries were female. In addition, in Nevis, one Cabinet member and the president of the House of Assembly were female.

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

While there are no governmental restrictions, no local human rights groups formed during the year. There were no requests for investigations or visits by international human rights groups during the year.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, birth out of wedlock, political opinion or affiliation, color, sex, or creed, and the Government generally respected these provisions in practice.

Women.—According to a government official, violence against women was a problem. A 2000 Domestic Violence Act criminalizes domestic violence and provides penalties for abusers. Although many women were reluctant to file complaints or pursue them in the courts, there were publicly reported cases of both domestic violence and rape, and a few convictions. The Department of Gender Affairs, under the Ministry of Social Development, Community, and Gender Affairs, was active in the areas of domestic violence, spousal abuse, and abandonment. It offered counseling for victims of abuse and conducted training on domestic violence and gender violence for officials of the police and fire departments, nurses, school guidance coun-

selors, and other government employees. There was no separate domestic violence unit in the police force.

The role of women in society is not restricted by law but was circumscribed by culture and tradition. There was no overt societal discrimination against women in employment, although analyses suggested that women did not occupy as many senior positions as men did. The Department of Gender Affairs conducted programs addressing poverty and health and promoting institutional mechanisms to advance the status of women and leadership positions for women. It operated three programs for rural women, providing them market skills and training as entrepreneurs. The Department provided clients assistance with problems such as lack of housing, unemployment, child care, technical training, and personal development. It also ran a "Return Teen Mothers to School Program" to encourage young mothers to complete their education. The Department produced three handbooks on sexual harassment, equal opportunity and employment, and equal pay for work of equal value. The Department continued its programs focusing on men as perpetrators of crimes of violence against women.

Prostitution is illegal and was not considered to be a problem.

There were no laws covering sexual harassment, which the Department of Gender Affairs considered to be a growing problem.

Children.—The Government is committed to children's rights and welfare and has incorporated most of the provisions of the U.N. Convention on the Rights of the Child into domestic legislation. The law mandates compulsory education up to the age of 16; it was free and universal. Over 98 percent of children completed school. Under the law, the age of consent is 16. During the year, the authorities brought charges in three cases involving alleged sexual activity with minors.

Persons with Disabilities.—Although there is no legislation to protect persons with disabilities or to mandate accessibility for them, the Constitution and the Government prohibit discrimination in employment, education, and other state services.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of all workers to form and belong to trade unions. The law permits the police, civil service, and other organizations to organize associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union (SKTLU) was associated closely with the St. Kitts and Nevis Labour Party and was active in all sectors of the economy. The opposition PAM party alleged that the ruling party used its influence to try to stifle other unions that would threaten the SKTLU in the workplace. In 2000 two taxi drivers' associations were formed, and the existing teachers' union became more active.

In December PAM and the teachers' union alleged that the Labour Party abused parliamentary privilege by making defamatory statements which, had they been made outside Parliament, could have been subject to legal charges. PAM stated that disparaging comments about the president of the teachers' unions were intended to stifle that union's growing (400-member) strength.

The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. However, the employer must pay lost wages and severance pay to employees who had worked at least 1 year, based upon length of their service. There was no legislation governing the organization and representation of workers, and employers were not bound legally to recognize a union, but in practice employers did so if a majority of workers polled wished to organize.

Unions were free to form federations or confederations and to affiliate with international organizations. The islands' unions maintained a variety of international ties.

b. The Right to Organize and Bargain Collectively.—Labor unions are free to organize and to negotiate for better wages and benefits for union members. Collective bargaining takes place on a workplace-by-workplace basis, not industrywide. The Labor Commissioner and Labor Officers mediate disputes between labor and management on an ad hoc basis. However, in practice few disputes actually went to the Commissioner for resolution. If neither the Commissioner nor the Ministry of Labor is able to resolve the dispute, the law allows for a case to be brought before a civil court.

The right to strike, while not specified by law, is well established and respected in practice. Restrictions on striking by workers who provide essential services, such as the police and civil servants, were enforced by established practice and custom, but not by law. There were no major strikes during the year.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits slavery and forced labor, and they did not occur in practice. While neither the Constitution nor the law specifically address bonded labor, it was not a problem in practice.

Prisoners can be required to work if their sentence was more than 30 days and stipulated “hard labor”; they received a small stipend for this work paid upon discharge.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor is addressed in the Employment of Women, Young Persons, and Children Act, as well as the 1966 Employment of Children Ordinance. The ordinance outlaws slavery, servitude, and forced labor. At year’s end, both laws were amended to set the minimum legal working age at 16 years. The Labor Ministry relied heavily on school truancy officers and the community affairs division to monitor compliance, which they generally did effectively.

Agriculture, domestic service, and illicit activities were areas in which juveniles found work. In rural families engaged in livestock farming and vegetable production, children often were required to assist as part of family efforts at subsistence. Girls often engaged in domestic service. Such labor included family-oriented work where children were made to look after younger siblings or ailing parents and grandparents at the expense of their schooling. Children often worked in other households as domestic servants or babysitters. There were no reported cases of child labor during the year, and no cases of child labor have ever been brought to the attention of the Department of Labor, which is empowered to investigate and address complaints of child labor.

At year’s end, child labor laws were being reviewed under a program of labor legislation review and update that began in 1999 with the 1986 Protection of Employment Act.

e. Acceptable Conditions of Work.—Minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers, were last updated in 1994, and manufacturing sector wages were revised in 1996. The average wage varied from \$67.42 (EC\$180) per week for full-time domestic workers to \$166.10 (EC\$443.50) per week for skilled workers. These provided a barely adequate living for a wage earner and family; many workers supplemented wages by keeping small animals such as goats and chickens. The Labor Commission undertook regular wage inspections and special investigations when it received complaints; it required employers found in violation to pay back wages. Workers who were laid off for more than 12 weeks received a lump sum payment from the Government based on previous earnings and length of service.

The law provides for a 40- to 44-hour workweek, but the common practice was 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides that workers receive a minimum annual vacation of 14 working days. While there were no specific health and safety regulations, the Factories Law provides general health and safety guidance to Labor Ministry inspectors. The Labor Commission settles disputes over safety conditions. Workers had the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims, and workers may leave such locations without jeopardy to their continued employment.

f. Trafficking in Persons.—There were no laws that specifically address trafficking in persons.

An “economic citizenship” program allowed foreign investors to purchase passports through loosely monitored procedures involving an investment of at least \$250,000 (EC\$675,000) in real estate, plus a registration fee of \$35,000 (EC\$94,500) for the head of household (amounts vary for other family members). This program reportedly facilitated the illegal immigration of persons from China and other countries to North America where, in some instances, criminal organizations that provided the funds to such persons forced them to work under conditions similar to bonded labor until their debt was repaid. The Government denied any knowledge of illegal immigration facilitated through this program and asserted that applicants were adequately screened.

SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The head of state was Queen Elizabeth II, represented by a Governor General, who has some residual powers under the Constitution that can be used at the Governor’s General’s discretion. The Prime Minister and the Cabinet, which usually represent the majority party in the bicameral Parliament, exercised

most of the power. In generally free and fair elections on December 3, 2001, Prime Minister Dr. Kenny Anthony's Saint Lucia Labour Party (SLP) retained power, winning 14 seats in the 17-member House of Assembly. The judiciary was generally independent.

The Royal Saint Lucia Police was the only security force and included a small unit called the Special Services Unit (which had some paramilitary training) and a coast guard unit. They were controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The country's market-based economy depended upon tourism and banana exports as the principal sources of foreign exchange. The population was approximately 158,000. Although tropical storm Lili destroyed more than 65 percent of the banana crop in September, construction work, agricultural output, and income from tourism were expected to increase during the year. In 2001 the real economic growth rate was a negative 5.3 percent, unemployment was 18.9 percent, and the rate of inflation was 1.9 percent.

The Government generally respected the human rights of its citizens; the authorities continued to investigate a killing committed by police in 2000. There were some allegations of physical abuse of suspects and prisoners by the police; poor prison conditions, long delays in trials and sentencing, incidents of mob attacks on suspected criminals, domestic violence against women, and child abuse also were problems. Saint Lucia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

At year's end, the Government had not concluded its investigation into the 2000 killing by police of escaped prisoner Alfred Harding. A jury returned a verdict of accidental death in the case involving the 2000 police shooting of Paul Hamilton.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution specifically prohibits torture, and there were no reports of torture or other cruel, inhuman, and degrading treatment or punishment during the year. Although no official complaints were filed, prisoners and suspects complained of physical abuse by police and prison officers.

During the year, the police force, with assistance from a team of British experts, prepared a 5-year plan, which includes community-based policing, crime prevention, increased professionalization, and attention to complaint investigation and internal review. In 2001 the Canadian government provided an officer of the Royal Canadian Mounted Police to act as Deputy Commissioner of Police in order to strengthen personnel procedures; his contract concluded in April. The police force added 50 new officers to bring its strength to over 700, and an additional 30 new officers were in training at year's end.

Prison conditions at the main prison in Castries continued to be poor, and overcrowding remained a severe problem. Lax security controls in an urban setting enabled weapons to be easily smuggled into the prison by relatives or be thrown over the prison walls. The focus of the correction program was containment; there were no training or rehabilitation programs, although there were a few craft programs.

Although there were different wings for prisoners requiring different levels of security, prisoners who were charged with crimes but not yet convicted were incarcerated with the convicts. In July the Government transferred 11 prisoners to a prison on Grenada for more than 2 months in order to defuse a tense situation at the prison that developed when rival drug gangs carried their conflicts inside the prison. While the prisoners were on Grenada, the Government undertook some repairs to the main prison in order to strengthen the facility.

In December there were 455 inmates in the main prison facility, which was built to house 80 inmates. Fifty young offenders (ages 18 to 20) were kept apart from older inmates. Sanitation was a particular problem, with open pit latrines for prisoners. Construction of a new prison facility near Dennery was just completed at year's end. It has separate facilities for females, young offenders, and those awaiting trial. It also has space set aside for rehabilitation programs, as well as a magistrate's courtroom. The Government hired and trained 78 new correctional officers to provide additional staff for the new prison; their training included segments on human rights.

In December there were 10 female prisoners in a separate prison facility for women, but they will be moved to the new prison in January 2003. Conditions in the women's facility were somewhat better than those at the men's prison. A boys' training school housed juveniles between 12 and 18 years of age; it will operate separately from the new prison.

The Government permitted prison visits by human rights observers. In addition, nine private sector volunteers appointed as "visiting justices" by the Ministry of Home Affairs visited prisoners periodically.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or imprisonment and requires a court hearing 72 hours after detention, and the Government generally adhered to these provisions in practice. However, in the past, authorities had held prisoners for years on remand after charging them. There was no constitutional requirement for a speedy trial, but the Government planned to use the magistrate's court in the new prison to reduce processing time for court hearings after detention. Those charged with serious crimes spent an estimated 6 months to 1 year on remand; however, those charged with petty offenses often received speedy trials, particularly if victims or witnesses might leave the island.

The Government did not use forced exile.

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

There are two levels of courts, which are the Courts of Summary Jurisdiction (Magistrate's Courts) and the High Court. Both levels have civil and criminal authority. The lower courts accept civil claims up to about \$1,850 (EC\$5,000) and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases can be appealed to the Eastern Caribbean Court of Appeal. Cases also may be appealed to the Privy Council in London as the final court of appeal.

The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants were entitled to select their own legal counsel, were presumed innocent until proven guilty in court, and had the right of appeal. The authorities observed both constitutional and statutory requirements for fair public trials.

The court system continued to face a serious backlog of cases. In November 2001, the Government appointed two new magistrates. The average time for a trial took 3 to 6 months in the magistrate's courts and 6 to 12 months for criminal cases. In an effort to speed up the court process, the Eastern Caribbean Supreme Court held training in October for court personnel in the areas of caseflow management and records management.

Citizens took justice into their own hands by attacking individuals suspected of committing crimes. In September residents in Soucis attacked a man suspected of robbing an elderly shopkeeper. In October the press reported that villagers in Anse La Raye chased a man suspected of involvement in the death of 70-year-old John Cadasse; he ran away, but the police arrested him and held him at year's end pending an investigation.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such actions, and government authorities generally respected these prohibitions in practice. Violations were subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were four major privately owned newspapers, two privately owned radio stations, one partially government-funded radio station, one government-operated television station that began operating in October, and two private television stations. These media carried a spectrum of political opinion and often were critical of the Government. The radio stations' discussion and call-in programs allowed persons to express their views. The two private television stations also covered a wide range of views. In addition, there was subscription cable television service, which provided programming from a variety of sources, such as CNN and the BBC.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

The law requires permits for public meetings and demonstrations if they are to be held in public places, such as on streets or sidewalks or in parks. The police routinely granted such permits; the rare refusal generally stemmed from the failure of organizers to request the permit in a timely manner, normally 72 hours before the event.

In September the police denied a request by the United Workers Party (UWP) for a permit to march in front of the Parliament building, on the basis that the Public Order Act prohibits marches in such locations between 8 a.m. and 5 p.m. The UWP was protesting the retention of Walter Francois, an elected Member of Parliament who allegedly misrepresented his academic credentials. Despite the lack of a permit to hold an organized protest, a number of persons picketed in front of the Parliament.

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

At year's end, there was still no resolution in the case of the two men accused of attacking a Sunday Mass in a Roman Catholic Church in December 2000, which was scheduled for a court hearing in February 2003. The men, believed to be Rastafarian, were charged with murder and arson for their alleged role in the attack in which a nun and a worshipper were killed and a priest was doused with gasoline and set on fire. Thirteen persons were hospitalized for treatment of knife wounds and burns, including the priest, who died in April 2001 as a result of blood clots, which may have been an existing condition prior to the attack.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

No formal government policy toward refugee or asylum requests existed. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced expulsion of any persons having a claim to refugee status; however, government practice remained undefined.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the right to change their government, and exercised that right in generally free and fair elections on December 3, 2001, when Prime Minister Anthony's SLP defeated the UWP, led by Morella Joseph. The SLP won 14 of 17 seats and the UWP won 3. The other opposition parties—the National Alliance, led by former SLP Foreign Minister George Odlum; the STAFF (Sou Tout Apwe Fete Fini) Party; and the St. Lucia Freedom Party—did not win any seats. The SLP capitalized on the failure of the opposition forces to unite in a national coalition due to a leadership struggle between Odlum and Sir John Compton, founder of the UWP and a former Prime Minister. Only 52 percent of those eligible voted, and the SLP won 55 percent of the popular vote.

Under the Constitution, general elections must be held at least every 5 years by secret ballot, but may be held earlier at the discretion of the Government in power. The Governor General appoints the 11-member Senate, which includes 2 independents.

Popularly elected local governments in the 10 administrative divisions (towns and villages) perform such tasks as regulation of sanitation and markets and maintenance of cemeteries and secondary roads.

There were no legal impediments to participation by women and minorities in government and politics, and 8 women competed in the 2001 elections in a field of 45 candidates for 17 positions. Voters elected two women to the House of Assembly, and there were four appointed female Senators. Two of the 13 members of the Cabinet were women, as was the Governor General.

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

The Government generally did not restrict international or nongovernmental investigations of alleged violations of human rights. Although the Government officially cooperated with such investigations, observers noted occasional reluctance by lower officials to cooperate.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

Neither the Constitution nor the law address discrimination specifically; however, government policy was nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement.

Women.—Violence against women was recognized as a serious problem. The Government did not prosecute crimes of violence against women unless the victim pressed charges. Most charges involving domestic violence must be brought under the ordinary Civil Code, but rape and other crimes were subject to the Criminal Code. A family court heard cases of domestic violence and crimes against women and children. The police force conducted some training for police officers responsible for investigating rape and other crimes against women. Late in the year, the police established a special unit to deal with domestic violence; the sole female sergeant in this section worked closely with the Ministry of Home Affairs and Gender Affairs. Police and courts enforced laws to protect women against abuse, although police were hesitant to intervene in domestic disputes, and many victims were reluctant to report cases of domestic violence and rape or to press charges.

The Domestic Violence Act allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, with the effect that the abuser no longer would have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for Women, a nongovernmental organization located in Castries, monitored cases of physical and emotional abuse and helped clients to deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. The Crisis Center reported 213 new cases during the year, brought by 52 men and 161 women, and 768 repeat cases. There were 56 new cases of spousal abuse and 6 sexual abuse cases, including 4 alleged rapes and 2 cases of incest. A recent project on Women, Gender, and Poverty in the Windward Islands sponsored by the Crisis Center focused on the problems faced by women farmers who were displaced by the downturns in the banana industry. Since its opening in September 2001, the Women's Support Center, a government shelter for abused persons, assisted approximately 40 women with more than 100 children.

Women's affairs were under the jurisdiction of the Ministry of Home Affairs and Gender Affairs. The Ministry was responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children.—The Government gave high priority to improving educational opportunities and health care for children. Education was compulsory from age 5 through 15; registration fees were required. Approximately one-third of primary school children continued on to secondary schools, and the drop out rate from primary to secondary school was higher for boys than for girls. Government clinics provided prenatal care, immunization, child health care, and health education services.

The Saint Lucia Crisis Center reported that the incidence of child abuse remained high; it received 24 new cases involving child abuse during the year. As there was no welfare system in place, parents of sexually abused children sometimes declined to press sexual assault charges against the abuser in exchange for financial contributions toward the welfare of any babies born of such abuse. In September the press reported that a 10-year-old gave birth and that an 11-year-old was pregnant.

Persons with Disabilities.—No specific legislation protects the rights of persons with disabilities, nor mandates provision of access to buildings or government services for them. Several government buildings added ramps to provide access. There was no rehabilitation facility for persons with physical disabilities, although the Health Ministry operated a community-based rehabilitation program in residents' homes. There were schools for the deaf and for the blind up to the secondary level. There also was a school for persons with mental disabilities. Several blind persons worked at banks.

Section 6. Worker Rights

a. The Right of Association.—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees and about 20 percent of the total work force was unionized. The law prohibits antiunion discrimination by employers, and there were effective mechanisms for resolving complaints. It also requires that employers reinstate workers fired for union activities.

Unions were independent of government and were free to choose their own representatives in often vigorously contested elections. There were no restrictions on

the formation of national labor federations. Several of the major unions belonged to an umbrella grouping called the Industrial Solidarity Pact that dealt with certain political matters.

Unions were free to affiliate with international organizations, and some did so.

b. The Right to Organize and Bargain Collectively.—Unions have the legal right to engage in collective bargaining, and they fully exercised this right in practice. The Registration of Trade Unions and Employer Organizations Act provides for compulsory recognition of unions and regulates internal union governance. Since it entered into effect in January 2000, it resulted in increased organizational activity by unions. There were three major unions—the National Workers Union, the Civil Service Association, and the Seamen, Waterfront, and General Workers Union—plus specialized unions for nurses and teachers.

Strikes in both the public and private sectors were legal, but there were many avenues through collective bargaining agreements and government procedures that may preclude a strike. The law prohibits members of the police and fire departments from striking. Other “essential services” workers—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days’ notice before striking.

Labor law is applicable in the export processing zones (EPZs), and there were no administrative or legal impediments to union organizing or collective bargaining in those zones. Although many firms resisted union efforts to organize in the EPZs, the new registration law appeared to have a positive influence on organizing efforts.

c. Prohibition of Forced or Bonded Labor.—The Government prohibits forced or bonded labor, and it was not known to occur. While there is no specific prohibition of forced or bonded labor by children, there were no reports of such practices.

d. Status of Child Labor Practices and Minimum Age for Employment.—Minors were protected legally from economic exploitation by several legislative acts, including the Employment of Women, Young Persons, and Children Act, which provides for a minimum legal working age of 14 years. The Government was in the process of updating the Labor Code to set the minimum legal working age at 16 years. The minimum legal working age for industrial work is 18 years. Child labor existed to some degree in the rural areas, primarily where larger, stronger, school-age children helped harvest bananas from family trees. Children also typically worked in urban food stalls or sold confectionery on sidewalks. However, these activities occurred on nonschool days and during festivals. The Department of Labor of the Ministry of Labor Relations, Public Service, and Cooperatives was responsible for enforcing statutes regulating child labor. Employer penalties for violating the 1938 child labor laws, which were being updated, were \$3.55 (EC\$9.60) for a first offense and \$8.88 (EC\$24) for a second offense. There were no formal reports of violations of child labor laws.

e. Acceptable Conditions of Work.—Minimum wage regulations in effect since 1985 set wages for a limited number of occupations. The minimum monthly wage for office clerks was \$111 (EC\$300), for shop assistants \$74 (EC\$200), and for messengers \$59 (EC\$160). The minimum wage was not sufficient to provide a decent standard of living for a worker and family, but most categories of workers received much higher wages based on prevailing market conditions. The 1999 Minimum Wage Act established a commission responsible for setting a minimum wage level; it met during the year but had not finished its work by year’s end.

There is no legislated workweek, although the common practice was to work 40 hours in 5 days. Special legislation covers hours that shop assistants, agricultural workers, domestics, and persons in industrial establishments may work.

Occupational health and safety regulations were relatively well developed; however, there was only one qualified inspector for the entire country, although the other nine inspectors included some review of health and safety conditions in their general inspections. The Ministry enforced the act through threat of closure of the business if it discovered violations and the violator did not correct them. However, actual closures rarely occurred because of lack of staff and resources. Workers were free to leave a dangerous workplace situation without jeopardy to continued employment.

f. Trafficking in Persons.—There were no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country.

SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. The Governor General, appointed by the British monarch, was the titular head of state, with largely ceremonial powers. In October 2000, Prime Minister Sir James F. Mitchell of the New Democratic Party (NDP) resigned, following divisive general strikes during the spring, and Arnhim Eustace, an NDP parliamentarian, replaced him. In March 2001 elections that were generally free and fair, the Unity Labor Party (ULP) won 12 of the 15 parliamentary seats, and ULP leader Ralph Gonsalves became the new Prime Minister. The NDP had held power for 17 years. The judiciary was generally independent.

The Royal St. Vincent Police, the only security force in the country, included a coast guard and a small Special Services Unit (SSU) with some paramilitary training, which often was accused of using excessive force. The force was controlled by and responsive to the Government, but police continued to commit some human rights abuses.

The market-based economy relied heavily on its supply of natural resources, including agricultural products such as bananas and arrowroot, as well as on the tourist industry. The country's population was approximately 113,000, and much of the labor force was engaged in agriculture. Bananas were the leading export and a major source of foreign exchange earnings. However, the banana industry was declining, and the growing tourism sector has become the leading earner of foreign exchange. Foreign remittances, an important source of income, declined. Unemployment was estimated to be between 25 and 40 percent, and real gross domestic product declined by 0.6 percent in 2001, compared with an increase of 2.1 percent in 2000.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The SSU was accused of one killing. Other principal human rights problems included instances of excessive use of force by police, the Government's failure to punish adequately those responsible for such abuses, poor prison conditions, and an overburdened court system. Violence against women and abuse of children also were problems. St. Vincent and the Grenadines was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings.

In September police shot and killed Othis Rhyne in his home on the island of Canouan in the course of executing a search warrant for illegal drugs. Newspaper reports focussed on a statement in the official press release from the police force indicating that Rhyne was shot not during but after a struggle with a police constable. The Police Department and a new Oversight Committee investigated the shooting. The Director of Public Prosecution (DPP) determined that there was insufficient evidence to bring charges against the police.

In March the authorities charged Prison Superintendent Eric Rodriguez with murder for the November 2001 death of inmate Kingsley Henry during a disturbance in the prison courtyard. The Superintendent claimed to have fired warning shots in the air to quell the riot; Henry, who received a bullet wound, died in the hospital. The DPP said that forensic evidence proved that the bullet that killed Henry was fired from Rodriguez's gun, and that three inmates claimed to have seen the Superintendent intentionally shoot an unarmed Henry from close range after he left the main yard and the disturbance at the prison had been quelled. However, at the trial in July, the High Court held that the prosecution had failed to make a case, and Rodriguez was acquitted. The Prime Minister reinstated Rodriguez to his post as Prison Superintendent a few days later (*see* Section 1.c).

In the December 2000 police killing of Ezekiel "Zulu" Alexander during a chase, the President of the Saint Vincent and the Grenadines Human Rights Association (SVGHRA) asserted that it was unnecessary, irresponsible, and unlawful. An inquest determined that one of the two policemen was liable for unlawful killing. The policeman was charged with manslaughter but was acquitted in an October trial.

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

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and other forms of cruel, inhuman, or degrading treatment or punishment. However, regional human rights groups noted that a high percentage of convictions were based on confessions. One human rights group believed that some of these confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure to inform properly those arrested of their rights.

In 2001 there were at least two cases of persons shot and injured in their homes by police who pursued them to enforce outstanding warrants for unpaid court fines. After police wounded Denzil Grant on the island of Bequia, the police filed assault charges against him in Magistrate's Court claiming that he had attacked the police with a cutlass. The magistrate found Grant guilty of attacking the police but only reprimanded and discharged him. The finding of guilt, however, effectively nullified any claim he might have had against the police for wounding him.

The Government established an Oversight Committee to monitor police activity and hear public complaints about police misconduct; members included a former attorney general and a religious leader. The committee reported to the Minister of National Security and to the Minister of Legal Affairs and actively participated in investigations during the year. The SVGHRA participated in two training seminars for police officers covering human rights and domestic violence.

Prison conditions were poor. Prison buildings were antiquated and overcrowded, with one holding more than 300 inmates in a building designed for 75; these conditions resulted in serious health and safety problems. The main prison is a four-building compound located in Kingstown. Pretrial detainees were held with convicted prisoners.

A 2001 report on prison conditions concluded that the main prison was "a university for crime" due to endemic violence, understaffing, underpaid guards, uncontrolled weapons and drugs, an increase in HIV/AIDS, and prevalence of unhygienic conditions such as missing toilets. The report stated that inmates received protection from internal violence through their membership in gangs. The report documented that after a prisoner was released, he was expected to throw alcohol, weapons, and drugs back over the prison wall for use by his gang. If a prisoner did not and, as frequently happened, returned to jail, he would be beaten severely. In addition, according to the report, a prisoner could expect to be stabbed sometime during his imprisonment. The report also noted that police and guards conducted sporadic, infrequent, and inefficient searches of the prison.

Toward the end of the year, the Government announced plans to build a new \$4.8 million (EC\$13 million) prison in Bellisle on the west coast. The new facility was designed to hold 400 male inmates, with separate areas for juveniles and first-time offenders.

In the January 2001 stabbing of then-Superintendent Leroy Latchman, followed days later by the killing of two inmates (one of whom allegedly had attacked Latchman), there was a preliminary inquiry, and the case was heard in the High Court in October. The court acquitted the accused inmates, ruling that the prosecution failed to make a case.

In July 2001, the Government hired a new Superintendent of Prisons, Eric Rodriguez, who reportedly ended the practice of inmates seeking protection from prison gangs. He also began in-house training of guards and arranged for guards to be trained in Barbados. There were 72 guards for 300 male inmates, and there were plans to increase the staff by 20 new guards. A rehabilitation program began, and inmates received contracts and jobs with local entrepreneurs. A school program began with courses in carpentry, tailoring, baking, and mechanical engineering.

In November 2001, inmate Kingsley Henry was shot and killed during a disturbance at the prison. The Prison Superintendent was charged with murder and taken into custody, but was later discharged when the High Court determined that the prosecution had not made a case (*see* Section 1.a.).

Inmates were allowed to speak freely with their lawyers, but a human rights lawyer asserted that there is an existing rule that a prison officer must stand not only within sight, but also within hearing of the inmate and his lawyer. Prison officials countered that an attorney may request that a guard not be within hearing range while discussing specifics of an inmate's case.

Female inmates were housed in a separate section in the Fort Charlotte prison. A family court handled criminal cases for minors up to age 16. Children may be charged and convicted as criminals from the age of 16. In such cases, children then may be jailed with older criminals. Conditions were inadequate for juvenile offenders, but there were plans to place first-time offenders in Fort Charlotte.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that persons detained for criminal offenses must receive a fair hearing within a reasonable time by an impartial court, and the Government generally respected these provisions in practice; however, complaints continued regarding police practices in bringing cases to court. Although there were only three official magistrates, the registrar of the High Court and the presiding judge of the family court effectively served as magistrates when called upon to do so. Some defense attorneys claimed that there were 6- to 12-month delays in preliminary inquiries for serious crimes.

The Constitution prohibits exile, and it was not used in practice.

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

The judiciary consists of lower courts and a High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There were three official magistrates, including the Chief Magistrate, a senior magistrate, and one other magistrate. In addition, the Registrar of the High Court had the authority to sit as a magistrate if called upon. The Chief Magistrate was also president of the family court. At year's end, the Eastern Caribbean nations were still considering proposals to create a new Caribbean court of justice to hear final appeals.

The Constitution provides for public trials. The court appointed attorneys for indigent defendants only when the defendant was charged with a capital offense. Defendants were presumed innocent until proven guilty and may appeal verdicts and penalties. The backlog of pending cases was reduced, even though the magistrate's court in Kingstown lacked a full complement of magistrates.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens, and there were no reports of such abuses during the year.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were two major newspapers and numerous smaller, partisan publications; all were privately owned, and most were openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press during the year. However, individual journalists believed that government advertising, a significant source of revenue, sometimes was withheld from newspapers that published articles unfavorable to the Government.

On September 16, editors from various Caribbean countries met in Barbados to lay the groundwork for an Eastern Caribbean Press Council. During the meeting, the journalists agreed to regulate themselves in accordance with a Code of Ethics, which was adopted in November. Two newspapers in St. Vincent agreed to participate.

The sole television station in St. Vincent was privately owned and operated without government interference. Satellite dishes were popular among those who could afford them. There was also a cable system with mainly North American programming that had over 300 subscribers. There were seven radio stations, one of which was government-owned.

In September Prime Minister Gonsalves, in his personal capacity, filed slander charges against Edward Lynch, a popular radio talk show host, and BDS Limited, the company that owned the radio station. Gonsalves alleged that Lynch, the host of a radio program sponsored by the opposition New Democratic Party, slandered Gonsalves by wrongly insinuating that he used public funds to pay for airline tickets to Rome for his daughter and mother. The matter was still before the court at year's end.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for these rights, and the Government generally respected them in practice.

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

Members of the Rastafarian community have complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflect discrimination on the basis of religious belief by authorities or simply en-

enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

For a more detailed discussion see the 2002 *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.

No formal government policy toward refugee or asylum requests existed. The issue of the provision of first asylum did not arise during the year. A Red Cross representative served as the honorary liaison with the office of the U.N. High Commissioner for Refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the right to change their government through regularly scheduled free and fair elections. The country has a long history of multiparty parliamentary democracy. The Constitution provides for general elections at least every 5 years. During the 1998 election, the ruling New Democratic Party won 8 of 15 seats in Parliament, despite losing the popular vote by 55 to 45 percent to the opposition Unity Labour Party. Calling this outcome an “overt manifestation of rejection by the public” of Prime Minister Mitchell’s government, the ULP claimed election fraud and demanded new elections. The Prime Minister refused the ULP demand. Subsequent demonstrations led to internal pressures and to an agreement brokered by members of the Caribbean Community that elections would be held in 2001. In November 2000, leaders of the three political parties signed a “Code of Conduct” intended to govern the campaign period, including a pledge of equal time on local radio and other electronic media and an agreement not to incite or encourage violence. The parties generally adhered to the code during the campaign.

On March 28, 2001, elections were held in accordance with the agreement. There was no serious violence, and observers declared the voting to be generally free and fair. The opposition ULP won 12 out of the Parliament’s 15 elected seats, and Dr. Ralph Gonsalves became Prime Minister, ending 17 years of NDP rule. Former Prime Minister Arnhim Eustace, who had taken over leadership of the NDP and become Prime Minister in 2000, was one of three NDP candidates to win a seat.

In addition to the 15 elected Members of Parliament, the Governor General appoints 6 more members, 4 on the nomination of the Prime Minister and 2 on the nomination of the Leader of the Opposition. These nominated members, who are called Senators, have the same privileges as the elected members except that they are not permitted to vote on a motion of no confidence brought against the Government.

There were no legal impediments to women’s full participation in politics or government. In March 2001, voters elected two women to Parliament; they also served as cabinet ministers—the Minister of Tourism and the Minister of Social Services. There were two female Senators. The Deputy Governor General and the Attorney General were also female.

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

Opposition political groups and the press often commented on human rights matters of local concern. The SVGHRA monitored government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. The SVGHRA participated in training seminars. The Government generally was responsive to public and private inquiries about its human rights practices.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equal treatment under the law regardless of race or sex, and the Government generally adhered to this provision in practice.

Women.—Violence against women, particularly domestic violence, remained a serious problem. The Domestic Violence/Matrimonial Proceedings Act and the more accessible Domestic Violence Summary Proceedings Act provide for protective orders, as well as occupation and tenancy orders; the former only is accessible through the High Court, but the latter can be obtained without the services of a lawyer in family court. As part of a human rights education program, the SVGHRA conducted numerous seminars and workshops throughout the country to familiarize citizens with their rights. Increasing numbers of women came forward with domestic violence complaints. Development banks provide funding through the Caribbean Association

for Family Research and Action for a program of Domestic Violence Prevention, Training, and Intervention. Police received training on domestic abuse, emphasizing the need to file reports and, if there was sufficient evidence, to initiate court proceedings. To counter the social pressure on victims to drop charges, some courts imposed fines against people who brought charges but did not testify. Depending on the magnitude of the offense and the age of the victim, the punishment for rape generally was 10 or more years in prison. Sentences of 20 years have been handed down for sexual assault of very young minors.

A 1995 amendment to the Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. Previously, fathers who had been ordered to pay child support could appeal decisions and not pay while the appeal was being heard. This resulted in a huge backlog of appeal cases and effectively reduced the number of mothers and children receiving support payments. There was a family court in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there were only a few bailiffs to service the country, summonses often were not served on time for cases scheduled to be heard in court.

The Office of Gender Affairs was under the Ministry of Education, Women's Affairs, and Culture. This office assisted the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

Marion House, an independent social services agency, was established in 1989 to provide counseling and therapy services. Four trained counselors and one foreign volunteer who is a clinical psychologist staff it. In 2001 the organization moved to a new building paid for with funds provided by the European Union, and it earned income by renting out office space to a government agency.

Children.—Education is not compulsory, but the Government investigated cases in which children were withdrawn from school before the age of 16. The Government cited lack of funding for new schools as an obstacle to making education compulsory. As a supplement to secondary school, the Government sponsored the Youth Empowerment Program, which was an apprenticeship program for young adults interested in learning a trade. Approximately 440 youths were enrolled in this program, earning a stipend of about \$148 (EC\$400) a month. The teachers' union estimated that between 8 and 10 percent of secondary school-age children did not attend school during the year. Despite the Government's efforts to support health and welfare standards, the infant mortality rate still was very high at 21 deaths per 1,000 live births, in part due to the large number of children born to teenage mothers.

The Domestic Violence Summary Proceedings Act provides a limited legal framework for the protection of children. Nevertheless, reports of child abuse remained high and were on the increase. The Family Services Department, Ministry of Social Development, was the Government agency responsible for monitoring and protecting the welfare of children. The police were the enforcement arm; the Family Services Department referred all reports of child abuse to the police for action.

Persons with Disabilities.—There was no specific legislation addressing persons with disabilities, and the circumstances for such persons were generally difficult. Most persons with severe disabilities rarely left their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supported a school for persons with disabilities, which had two branches. A separate, small rehabilitation center treated about five persons daily.

Section 6. Worker Rights

a. The Right of Association.—Citizens had the right to form unions and organize employees under the constitutional provisions for freedom of association; however, there was no law that requires employers to recognize unions. Less than 10 percent of the work force was unionized. The Trade Unions Act covers registration of unions; a draft Labor Relations Act under debate included a proposal for employer recognition of trade unions. The constitutional prohibition against discrimination could be applied to antiunion discrimination; however, in practice few such complaints were lodged because employers cited other reasons for dismissal.

The Protection of Employment Act provides for compensation and worker rights, but these were restricted to protection from summary dismissal without compensation and reinstatement or severance pay if unfairly dismissed. The law provides a severance package of 2 weeks' pay for each year of service, with a maximum of 52 weeks. The Government's proposed Employment Relations Act would repeal the Protection of Employment Act and provide for enhanced worker rights.

Unions had the right to affiliate with international bodies, and they did so in practice.

b. The Right to Organize and Bargain Collectively.—There were no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. The Trade Dispute, Arbitration, and Inquiry Act provides that if both parties to a dispute consent to arbitration, the Minister of Labor can appoint an arbitration committee from the private sector to hear the matter.

There was no general prohibition against strikes; however, the Essential Services Act prohibits persons providing such services (defined as electricity, water, hospital, and police) from striking. In January workers at the St. Vincent Marketing Corporation went on strike for 2 days to protest the layoff of 28 employees. The Ministers of Labor and Agriculture interceded, and the employer agreed to take back the workers, some of whom chose voluntary severance instead of returning to work.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, and it was not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets the minimum working age at 16 years of age, and workers may receive a national insurance card at that age. The Ministry of Labor monitored and enforced this provision, and employers generally respected it in practice. The Labor Inspectorate at the Department of Labor received, investigated, and addressed child labor complaints. Labor officers in this unit conducted general inspections of work places annually. The age of leaving school at the primary level was 15 years; when these pupils left school, they usually were absorbed into the labor market disguised as apprentices. There was no known child labor except for children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government has partnered with the nongovernmental sector, including UNICEF, in an antipoverty strategy aimed at improving economic opportunities for youth.

e. Acceptable Conditions of Work.—The Government sets minimum wages, which were last promulgated in 1989. They varied by sector and type of work and were specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture the wage for workers provided shelter was \$6.74 (EC\$18) per day; industrial workers earned \$7.49 (EC\$20) per day. In many sectors, the minimum wage was not sufficient to provide a decent standard of living for a worker and family, but most workers earned more than the minimum. By law, the Wages Council should meet every 2 years to review the minimum wage, but it had not met since 1989. A new Wages Council was appointed in March 2001 following the elections; it met and submitted minimum wage recommendations to the Government, which held a town meeting in October to solicit public comment prior to consideration of a new minimum wage, scheduled to be submitted to Parliament in 2003.

The law prescribes workweek length according to category; for example, industrial employees work 40 hours a week, store clerks work 44 hours a week, and agricultural workers either 30 or 40 hours per week. The law provides workers a minimum annual vacation of 2 weeks after 1 year's service.

According to the Ministry of Labor, legislation concerning occupational safety and health is outdated. The most recent legislation, the Factories Act of 1955, has some regulations concerning factories, but enforcement of these regulations was ineffective. At year's end, the Government was reviewing this act and other laws and proposed to limit the exposure of agricultural workers to hazardous substances. Trade unions addressed some violations relating to safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual impairment by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. The law does not address specifically whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, but it stipulates conditions under which plants must be maintained. Failure to do so would constitute a breach, which might cover a worker who refused to work under these conditions.

f. Trafficking in Persons.—There were no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

SURINAME

The Government is still in the process of institutionalizing democratic, constitutional rule in the country. After generally free and fair elections in May 2000, the 51-member National Assembly elected Ronald Venetiaan of the National Party of Suriname (NPS) as President in August 2000; he replaced Jules Wijdenbosch of the National Democratic Party (NDP). Venetiaan previously served as President in 1991–96. The judiciary was generally independent, although it was inefficient.

The armed forces were responsible for national security and border and immigration control; they were under the effective control of the civilian Minister of Defense. Civilian police bore primary responsibility for the maintenance of law and order; they reported to the Ministry of Justice and Police. During the year, the military helped the police maintain security in remote communities near large enterprises and conducted joint patrols with the police on an ad hoc basis to combat crime on highways. The first Venetiaan government had reformed the military in 1995–96 by purging military officers and supporters of former dictator Desi Bouterse, who ruled the country in the 1980s. Bouterse's NDP won 10 seats in the National Assembly in 2000, 1 of which he occupies. Over the past few years, the NDP's influence within the military declined steadily; however, Bouterse still retained influence with some military officers. The military police continued to maintain responsibility for control of the country's borders and airports, but it had not investigated civilian crimes since 1989. Members of the police and prison guards committed some human rights abuses.

The mixed economy depended heavily on the export of bauxite derivatives. The country's population was approximately 450,000. The Government and state-owned companies employed over half the working population. Unregulated gold mining was an increasingly important economic activity that highlighted a lack of land rights for indigenous and tribal peoples and had a serious negative environmental impact. Estimated gross domestic product grew by approximately 3 percent. The inflation rate was 28.3 percent, compared with 4.2 percent in 2001 and 82 percent in 2000. Poverty was widespread; one report estimated that 85 percent of families lived below the poverty line.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. Police mistreated detainees, particularly during arrests; guards abused prisoners; and local detention facilities remained overcrowded. Lengthy pretrial detention was a problem, and the judiciary suffered from ineffectiveness and a huge case backlog due to the shortage of judges. Media self-censorship continued. Societal discrimination against women, minorities, and tribal people persisted. Violence against women and trafficking in women and girls were problems. Suriname was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In August 2001, there was one report of an alleged police killing in the town of Albina, on the border with French Guiana. When the police took a man into custody on suspicion of motor bike theft, they took him to a detention area and handcuffed him. He allegedly tried to escape and was shot in the back of the head without warning. The victim's family called for an investigation into the shooting. According to Moiwana '86, a human rights group, the responsible police officer was tried in March, found guilty, and sentenced to 5 years in prison.

The Government did not address many past abuses, and they continued to be a focus of concern. The authorities took no action against prison guards who allegedly beat a prisoner to death in 1993. There was no investigation into the 1986 massacre of more than 50 civilians at the village of Moiwana; however, according to various human rights groups, the Venetiaan government appeared to be interested in investigating the Moiwana case but did not actually begin an investigation. In 1997 Moiwana '86 took the case to the Inter-American Commission on Human Rights (IACHR), which gave the Government until December 1 to report on the status of its investigation.

After the elections in 2000, there were calls for the new government to launch an investigation into the December 1982 killings by the Bouterse regime of 15 prominent political, labor, business, and media leaders before the 18-year statute of limitations expired in December 2000. In October 2000, the Court of Justice began

hearings on the killings in response to a request from relatives of the victims. Bouterse's lawyer sought to postpone the hearings, but the court denied his request. The court heard testimony from the victims' relatives, human rights activists, and the prosecutor's office, which had not yet made any investigation into the killings. Previously, Bouterse himself had requested an investigation, after the victims' relatives asked a Dutch court to prosecute him in that country. In September 2001, the Dutch court ruled that it did not have jurisdiction, but the Dutch High Court later ruled that some of the charges against Bouterse could be prosecuted in the Netherlands. Following an order from the Court of Justice, an examining judge continued an investigation into the killings. During the year, two rogatory commissions visited the Netherlands to gather testimony, and with the collection of testimony completed, Dutch forensic experts arrived to examine exhumed bodies. However, no suspects were charged or brought to trial by year's end.

b. Disappearance.—There were no reports of politically motivated disappearances. However, the Government had yet to take any action to investigate allegations of some disappearances that occurred under previous regimes.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits inhuman treatment or punishment; however, human rights groups continued to express concern about official mistreatment and have documented cases of police mistreatment of detainees, particularly during arrests, and guard abuse of prisoners.

Citizens filed a total of 235 cases with the Personnel Investigation Department (OPZ), the majority of which were for physical mistreatment. The OPZ is an office within the Police Department that is responsible for investigating complaints against officers. It makes recommendations regarding whether or not an officer should be punished internally, or if criminal charges should be brought. The authorities arrested 10 officers and relieved 22 officers from their duties. Police officers have been charged with brutality, but no figures were available regarding sentencing.

Beatings by police were common. Police officers, who were not trained in prison work, served as the jailers at local detention facilities, a situation that human rights groups asserted contributed to the abuses. There were three prisons and several detention facilities at police stations, where arrestees were detained until they appeared before a judge for trial. Human rights activists were concerned about conditions in the prisons and especially about conditions in local detention facilities, which remained overcrowded. At police stations, guards allowed detainees no exercise and only rarely permitted them to leave their cells. Detainees and human rights groups also complained about inadequate meals, although families were permitted and encouraged to provide food to incarcerated relatives. There was no consideration for persons who required a specific diet for religious reasons. Human rights monitors reported that guards mistreated detainees, and that medical care and living conditions were inadequate.

Prison conditions were poor, and in many cases they did not meet international standards. Violence among prisoners was common, and the authorities usually did not punish prisoners for violence against other prisoners. Some prison facilities were renovated in recent years, which improved health and safety conditions. However, most facilities, especially older jails, remained unsanitary and seriously overcrowded, with as many as four times the number of detainees for which they were designed.

Conditions in women's jail and prison facilities were, in general, better than those in the men's facilities. There was a wing of an adult prison for boys under age 18 who had committed serious crimes. Juvenile facilities for boys between the ages of 10 and 18 within the adult prison were adequate; educational and recreational facilities were provided. There was no separate facility for girls under the age of 18, who were housed within the women's detention center and in the women's section of one of the prison complexes.

Since 1996 Moiwana '86 has monitored the condition of prisoners. Representatives of the group reported that in general they had access to prisoners and received cooperation from prison officials on routine matters. When requesting access to individual prisoners, human rights observers generally gained access quickly. However, if an individual had filed a complaint with the organization claiming physical mistreatment, access often was delayed. The authorities granted the group permission to visit one prison on a regular basis, on the condition that they meet with the head of the prison following such visits. Moiwana '86 reported that the authorities granted all requests for prison visits during the year.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention, and the authorities generally respected these provisions in practice. How-

ever, delays caused prisoners who appealed their sentences to remain in prison until a ruling was reached on their appeal, even if they had served the full term of their original sentence. Lawyers filed complaints, but the problem was not resolved.

The law provides that the police may detain for investigation for up to 14 days a person suspected of committing a crime for which the sentence is longer than 4 years. During the 14-day period, the law also permits incommunicado detention, which must be authorized by an assistant district attorney or a police inspector. Within the 14-day period, the police must bring the accused before a prosecutor to be charged formally. If additional time is needed to investigate the charge, a prosecutor may authorize the police to detain the suspect for an additional 30 days. Upon the expiration of the initial 44 days, a judge of instruction may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is tried. The judge of instruction has the power to authorize release on bail, but that power was used rarely, if ever. In July 2001, there was a fire in the lower courthouse, which caused a delay both in investigations and in court proceedings. As a result, in August 2001 the Government enacted emergency legislation that lengthened the initial period an inmate may be held without judicial appearance to 120 days. A judge may extend the period twice by 30 days.

Pretrial detainees, who constituted a large percentage of inmates, routinely were held without being brought before a judge. The average length of pretrial detention varied; for lesser crimes it was from 30 to 45 days, while for more serious crimes, the maximum time usually was utilized. Detainees often were held in overcrowded detention cells at local police stations. A steadily growing number of persons who already had been convicted but not yet placed in prisons due to a lack of space in prison facilities were held in police custody or detention cells.

The military police continued to observe the requirement to hand over to the civil police civilians arrested for committing a crime in their presence.

The Constitution does not address exile; however, it was not used in practice.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, disputes over the appointment of judges to the bench undermined the independence of the judiciary in recent years. In 2000 the President appointed a new Solicitor General, and the Court of Justice confirmed him in September 2001. The President had yet to confirm the Acting Attorney General, although he has served in that position since 2000. Appointment as Attorney General is a lifetime position. As a result of the conflict from previous years, the effectiveness of the civilian and military courts still was limited in practice, but at year's end the judiciary appeared to be acting generally independently, albeit inefficiently, since it was hampered by a large case backlog.

The judicial system consisted of three lower courts and an appeals court, which was called the Court of Justice; there was no Supreme Court. The Government had not yet appointed a permanent president for the Court of Justice. There were only seven judges and five acting judges in the judiciary. The 1987 Constitution calls for the establishment of an independent constitutional court; the National Assembly debated creating such a court since then, but had not done so.

The Constitution provides for the right to a fair public trial in which defendants have the right to counsel if needed. The courts assign lawyers in private practice to defend indigent prisoners and pay lawyers from public funds. However, the court-assigned lawyers, of whom there were four, usually only appeared at the trial. According to *Moiwana '86*, sometimes these lawyers did not appear at all. The courts must, and in practice did, free a detainee who was not tried within the 164-day period. Trials were before a single judge, with the right of appeal. Due to the shortage of judges, there was a backlog of cases of 1 year for civil cases and up to 6 months for criminal cases.

Military personnel generally were not subject to civilian criminal law. A member of the armed forces accused of a crime immediately came under military jurisdiction, and military police were responsible for all such investigations. Military prosecutions were directed by an officer on the public prosecutor's staff and took place in separate courts before two military judges and one civilian judge. The military courts followed the same rules of procedure as the civil courts. There was no appeal from the military to the civil system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the right to privacy. The law requires warrants, which are issued by quasi-judicial officers who supervise criminal investigations, for searches. The police obtained them in the great majority of investigations. While in the past there were complaints of surveillance of human rights workers by members of the

military police and the Central Intelligence and Security Service, none were reported during the year. There was still a threat of forced resettlement of indigenous populations due to the granting of timber and gold concessions (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, some media members continued to practice occasional self-censorship because of the history of intimidation and reprisals by certain elements of the former military leadership.

In July the daily newspaper *De West* was threatened in connection with its coverage of weapons theft from the Government's Central Intelligence and Security Service. In April 2000, that newspaper had been firebombed, but no suspects were arrested. According to *De West*, police knew the perpetrator of the crime.

There were 3 daily newspapers, 11 television stations, and about 25 radio stations. Three television stations and two radio stations were owned publicly. Three companies, one owned publicly, provided cable television, which included foreign channels. Many television and radio stations broadcast only in a limited area. Two companies, one private and one public, offered unrestricted access to electronic media.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Despite a law from the 1930s requiring a permit to hold a public demonstration or gathering, the authorities allowed public marches to proceed without permits, if they were orderly and guided by police.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

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

For more detailed information see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens may change their residence and workplaces freely and may travel abroad as they wish. Political dissidents who emigrated during the years of military rule were welcome to return. Few of them chose to do so, generally for economic reasons. Citizenship was not revoked for political reasons.

Although it is possible for persons to be granted refugee status under special circumstances, there are no provisions in the law for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no such requests during the year.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for this right, but in the past the military prevented its effective exercise. Although the military twice transferred power to elected civilian governments following coups, 2000 marked the second time since independence from the Netherlands in 1975 that one elected government succeeded another in accordance with constitutional provisions. The Government is still in the process of institutionalizing democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for the right to change the Government through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects the President by a two-thirds majority vote. If the legislature is unable to do so, as was the case both in the 1991 and 1996 national elections, the Constitution provides that a national people's assembly, composed of Members of Parliament and regional and local officials, shall elect the President.

The law allows early elections with the concurrence of both the National Assembly and the President; in May 1999, widespread street demonstrations triggered by the declining economy forced the Government of then-President Wijdenbosch to call early elections, which were held in May 2000. After those elections, which observers

considered to be generally free and fair, the National Assembly elected NPS leader Ronald Venetiaan as President in August 2000.

The Constitution provides for the organization and functioning of political parties. Many parties and political coalitions were represented in the National Assembly. President Venetiaan formed a cabinet from members of the New Front coalition, comprised of the NPS, a predominantly Creole party; the Progressive Reform Party, a predominantly Hindustani party; the Suriname Labor Party, a political wing of the largest labor union; and Pertjaja Luhur, a predominantly Javanese party.

There were historical and cultural impediments to equal participation by women in leadership positions in government and political parties. In the past, most women were expected to fulfill the roles of housewife and mother, thereby limiting opportunities to gain political experience or position. Participation by women in politics (and other fields) generally was considered inappropriate. While women made limited gains in attaining political power in recent years, political circles remained under the influence of traditional male-dominated groups, and women were disadvantaged in seeking high public office. There were 10 women in the 51-seat National Assembly; in 2000 the Assembly appointed a woman as vice chairperson. The Cabinet included one woman as Minister of Foreign Affairs, another as Minister of Internal Affairs, and a third as Deputy Minister of Social Affairs. In February 2001, the first female member of the Court of Justice was sworn in.

Although the Constitution prohibits racial and religious discrimination, several factors limited the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and Amerindians in the political process. Most of the country's political activity took place in the capital and a narrow belt running east and west of it along the coast. The Maroons and Amerindians were concentrated in remote areas in the interior and therefore had limited access to, and influence on, the political process. Voters elected the first Amerindians to the National Assembly in 1996. In the May 2000 elections, voters elected eight Maroons and one Amerindian to the National Assembly. There were no Maroons or Amerindians in the Cabinet.

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

Human rights groups operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally were not cooperative or responsive to their views.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and laws, with the exception of certain ethnic marriage laws, do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. However, in practice several groups within society suffered various forms of discrimination.

Women.—Violence against women was a problem. The law does not differentiate between domestic violence and other forms of assault. The Government has not addressed specifically the problem of violence against women. According to a national women's group, victims continued to report cases of violence against women and complained of an inadequate response from the Government and society to what appeared to be a trend of increasing family violence. No reliable statistics were available as to the extent of the problem. However, Stop the Violence Against Women, a nongovernmental organization (NGO), stated that among those women who reported their abuse to the group, the average abused woman was married, between the ages of 25 and 50, had two to three children, and was employed in a low-paying job. Although the police were reluctant to intervene in instances of domestic violence, a national women's group noted that police attitudes improved significantly as a result of training conducted in 1999. For example, two police stations opened victim's rooms, the first in Nickerie in 2000 and the second during the year in Paramaribo, to provide better services to victims of all kinds of crimes. The Government planned to open a victim's room in every police station.

Rape is illegal, but spousal rape was not against the law. During the year, there were 50 prosecutions for rape, with 38 convictions; sentences ranged from 12 months to 5 years.

There were no specific laws to protect women against sexual exploitation. Prostitution is illegal; however, law enforcement officials did not enforce prostitution laws or arrest women for prostitution unless they were working on the street. Police allowed many "brothel-type" establishments to operate, and officials asserted that they made random checks on the brothels twice a month to see if women were being abused or held against their will. In spite of this effort, there were credible reports of trafficking in women for prostitution (*see* Section 6.f.).

There were no laws prohibiting sexual harassment, and it did occur.

Women had the right to equal access to education, employment, and property. Nevertheless, social pressures and customs, especially in rural areas, inhibited their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experienced economic discrimination in access to employment and in rates of pay for the same or substantially similar work. A report published in March showed that 89 percent of women were employed in entry-level positions, 9 percent had mid-level jobs, and 3 percent held management positions. More than 60 percent of women worked in traditionally female administrative or secretarial jobs. The Government did not make specific efforts to combat economic discrimination. In February the Government ratified the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against women; as a result, it has to adjust existing legislation to bring it into compliance with the Convention.

There was a National Gender Bureau in the Ministry of Home Affairs, which prepared an Integral Gender Action plan for 2000–2005 and appointed a program manager for gender policy in June 2001. However, its effectiveness was limited severely by financial and staffing constraints. The principal concerns of women's groups were political representation, economic vulnerability, violence, and discrimination.

Children.—The Government allocated only limited resources to ensure safeguards for the human rights and welfare of children. School is compulsory until 12 years of age, but some school-age children did not have access to education due to a lack of transportation, facilities, or teachers. School attendance was free; however, most public schools imposed a nominal enrollment fee, ranging from \$4 to \$24 (Sf10,000 to Sf60,000) a year. If a family was unable to pay, the Government provided assistance. Families must supply uniforms, books, and miscellaneous supplies. Approximately 70 percent of children in cities attended school. Children in the interior did not receive the same level of education as those in the city, and as few as 40 percent actually attended school. Children faced increasing economic pressure to discontinue their education in order to work (*see* Section 6.d.). There was no legal difference in the treatment of girls and boys in education or health care services, and in practice both were treated fairly equally.

There were continuing reports of malnutrition among poor children, but it was difficult to quantify the extent of the problem. In the capital, where most of the country's population was concentrated, there were several orphanages and one privately funded shelter for sexually abused children. Elsewhere, distressed children usually relied on the resources of their extended families.

There was no societal pattern of abuse directed against children; however, some children were exploited sexually, and there were credible reports of trafficking in girls for prostitution (*see* Section 6.f.). There was increased awareness of sexual abuse of children during the year, although the number of reports declined. During the year, a local NGO mounted a campaign against child sexual abuse in a newspaper and on the radio to increase awareness.

The legal age of sexual consent is 14; however, it was not enforced strictly, and the Asian Marriage Law sets the marriage age for children of Asian descent at 13 years for girls and 15 years for boys. Otherwise, individuals of Asian descent must be 30 years old to marry without parental permission.

Persons with Disabilities.—There were no laws concerning persons with disabilities and no provisions for making private or public buildings accessible to them. There were also no laws mandating that they be given equal consideration when seeking jobs or housing. However, there were some training programs for the blind and others with disabilities. In practice persons with disabilities suffered from discrimination when applying for jobs and services.

Indigenous Persons.—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians suffered a number of disadvantages and had only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs were concentrated in the capital and its environs, while the majority of Amerindians (as well as Maroons) lived in the interior. Government services in the interior were largely unavailable, and much of the infrastructure was destroyed during the 1986–91 insurgencies; progress in reestablishing services and rebuilding the infrastructure was very slow.

The Government-appointed Consultative Council for the Development of the Interior, provided for in the 1992 peace accords that formally ended the insurgencies, included representatives of the Maroon and Amerindian communities. However, the Government did not consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands. Following demonstrations in July 2001 by veterans of the Jungle Commando, who played a

large role in the insurgencies, their de facto leader Ronny Brunswijk met with the Minister of Regional Development. The meeting resulted in a promise of quarterly meetings to monitor implementation of the 2001 Lelydorp Accord, which superseded the 1992 peace accords. The Government began integrating former Jungle Commando members into the police but had not implemented the native land rights portion of the agreement.

Organizations representing Maroon and Amerindian communities complained that small-scale mining operations, mainly by illegal Brazilian gold miners, dug trenches that cut residents off from their agricultural land and threatened to drive them away from their traditional settlements. Mercury runoff from these operations also contaminated and threatened traditional food source areas.

The Maroon and Amerindian populations still faced problems with illegal and uncontrolled logging and mining. In October 2000, the Vereniging van Saramakaanse Gezagdragers, an organization representing 12 Saramaccaner villages, filed a petition with the IACHR claiming that lumber operations, mostly by Chinese-owned concessions, were threatening their way of life. The villagers sought observance of a 1762 treaty between their ancestors and Dutch colonial authorities, which granted ownership of the interior to the tribes as long as they occupied the land. At year's end, the case was still pending, and the Government had not investigated the alleged claims.

A major bauxite producer had continued problems with Maroon groups; the Maroons claimed that the concessions were located on tribal land, and the company claimed infringement on its concessions. The company depended upon the police and army to monitor the area and prevent conflict.

Maroon and Amerindian groups continued to cooperate with each other in order to exercise their rights more effectively. During an annual meeting in September, the Association of Indigenous Village Chiefs discussed socioeconomic problems, land rights, nature reserves, and biodiversity. The leaders wanted the Government to honor provisions of the peace accords with the Jungle Commando in 1991 and with the Tucajana Amazonas in 1992 to establish economic zones around both Maroon and indigenous communities.

Section 6. Worker Rights

a. The Right of Association.—The Constitution protects the right of workers to associate and to choose their representatives democratically. Nearly 60 percent of the work force was organized into unions, and most unions belonged to one of the country's six major labor federations. Unions were independent of the Government but played an active role in politics. The small Labor Party historically was a very influential force in government.

The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There were no restrictions on unions' international activities. Unions were active members of both the International Labor Organization and the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively.—The Constitution explicitly recognizes these rights, and the authorities respected them in practice. Collective bargaining agreements covered approximately 50 percent of the labor force. Bauxite industry workers were organized, but gold miners were not.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors were common as workers tried to regain wages lost to inflation in previous years.

There were a number of strikes during the year. Striking fire fighters refused to assist a driver who was trapped following a collision; as a result, the driver died. The police union went on strike, but called it off after 3 days when the Government began a court case against the union. Other strikes involved government day care workers, banana workers, and a union representing workers manufacturing consumer goods.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor. The law prohibits forced and bonded labor by children; however, child prostitution did occur (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The law sets the minimum age for employment at 14 years; however, the Ministry of Labor and the police enforced this law only sporadically. Children under 14 years of age

worked as street vendors, newspaper sellers, or shop assistants. Working hours for youths were not limited in comparison with the regular work force. Although government figures reported that only 2 percent of children were economically active, another survey found that 50 percent of children between the ages of 4 and 14 years were economically active, working mainly in the informal sector. The Government has not ratified the International Labor Organization's Convention 182 on elimination of the worst forms of child labor.

e. Acceptable Conditions of Work.—There was no minimum wage legislation. Including a cost of living allowance, the lowest wage for civil servants was about \$138 (S\$386,000) per month. This salary level made it very difficult to provide a decent standard of living for a worker and family. Government employees, who constituted approximately 50 percent of the work force of 100,000 persons, frequently supplemented their salaries with second or third jobs, often in the informal sector. The President and Council of Ministers set and approve civil service wage increases.

Work in excess of 9 hours per day or 45 hours per week on a regular basis required special government permission, which was granted routinely. Such overtime work earned premium pay. The law requires one 24-hour rest period per week.

A 10- to 12-member inspectorate in the Occupational Health and Safety Division of the Ministry of Labor was responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel precluded the division from making regular inspections of industry. There was no law authorizing workers to refuse to work in circumstances they deem unsafe; they must appeal to the inspectorate to declare the workplace situation unsafe.

f. Trafficking in Persons.—The only laws that prohibit trafficking in persons were dated "white slavery" laws that were enforced rarely and applied only to women and children. There were credible reports of trafficking in women and girls within the country and to the country for prostitution. The country also was a transit point for trafficking. Women and girls from the interior were brought to the capital city and also to various gold mining locations in the interior. Several clubs in the capital were known for recruiting women from Brazil, Colombia, Venezuela, and the Caribbean (Guyana, Haiti, and the Dominican Republic). While prostitution is illegal, the law was not enforced. The police had an informal agreement with many "hotel" or brothel owners to allow them to proceed with their business as long as they did not hold the women's passports and the women were not mistreated. Random checks were performed on the establishments weekly; in several instances, police officers worked as advisers to the owners.

Brothel owners often attempted to hold airline tickets for women they had paid to bring to the country to ensure that the women completed their contracts. The police arranged a compromise with the brothels and the prostitutes that when disagreements arose, the police would hold the ticket until an agreement was reached. There were some reported instances of individuals brought to the country under false pretenses and then forced to work as prostitutes. In cases where the victims were able to alert the police, the police helped them to return to their country of origin at the victims' expense. In 2001 one club owner in Paramaribo was convicted in Brazil for trafficking in women.

There were credible reports of individuals using the country as a transit point to transport Brazilian women to Europe and the United States for purposes of prostitution. In addition, alien smuggling organizations used the country as an intermediate destination to smuggle Chinese and Indian nationals, including women and girls, to the United States, where frequently they were forced into bonded-labor situations.

TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been generally free and fair elections since independence from the United Kingdom in 1962. Parliament elects a president, whose office is largely ceremonial but does have some appointive power.

When the December 2001 elections produced an 18–18 balance in Parliament between the United National Congress (UNC) and People's National Movement (PNM), both parties agreed to allow President A.N.R. Robinson to designate the new Prime Minister. However, when the President selected the PNM's Patrick Manning, the UNC refused to abide by the decision, and the deadlocked Parliament was unable to pass legislation or elect a speaker for 9 months, until new elections on October 7 yielded a 20 to 16 working majority for Manning and the PNM. A 12-member

elected House of Assembly handled local matters on the island of Tobago. The judiciary was generally independent.

The Ministry of National Security oversaw the police service and the defense force, rendering them responsive to civilian authority. An independent body, the Police Service Commission, made all personnel decisions in the Police Service, and the Ministry had little direct influence over changes in senior positions. There were credible reports that police and prison guards committed some human rights abuses.

Oil and natural gas production and related downstream petrochemical industries, including ammonia and methanol production, provided the base for the market-based economy. The country's population was approximately 1.3 million. The service sector was the largest employer, although industrialization and associated plant construction created many jobs in the construction industry. Agriculture, while contributing only 4 percent to gross domestic product, remained an important employer, both at the subsistence and commercial level. Unemployment, at a reported 11 percent, contributed to a skewed income distribution. The economic growth rate was approximately 2.7 percent during the year.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Nonetheless, there were reports of police and guard abuse of prisoners. Poor prison conditions and significant violence against women remained problems. Trinidad and Tobago was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

At year's end, a pretrial hearing began in the case of former cabinet minister Danrajh Singh, charged for the 1999 murder of politician Hanraj Sumairsingh, and the trial was set for 2003. Despite public speculation about possible political motives for the murder, there were indications that corruption may have been the root of the incident.

On August 27, police arrested three prison guards in connection with the June 2001 death of prisoner Anton Cooper. The circumstances surrounding the death, and the slow pace of the investigation, provoked widespread criticism. At year's end, the three guards were charged with murder, and a preliminary inquiry was underway in Magistrate's Court.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports of police and prison personnel abusing prisoners in incidents that involved beating, pushing, and verbal insults. An Amnesty International report stated that use of excessive force and ill treatment of prisoners and suspects by police and guards continued. The Commissioner of Police admitted that there were frequent citizen allegations of police brutality, but he asserted that such claims often were "counter-claims" by citizens who had been arrested for crimes.

In June Sudesh Samaroo claimed that police officers beat him, abducted him from his home, taunted him, and threw him from a cliff before he managed to escape. The Police Complaints Authority opened an investigation into the charges, and the investigation continued at year's end.

In September prison authorities opened an investigation into claims by death row inmate Damian Ramiah that he had been severely beaten by prison officers on July 30.

In November Keyon Anthony charged that police officers severely beat him during a search for an illegal firearm; he never was charged with a crime. Anthony brought his allegations to the Police Complaints Authority.

Police corruption continued to be a problem. An independent body, the Police Complaints Authority, received complaints about the conduct of any police officer, monitored the investigation of complaints, and determined disciplinary measures where appropriate, including dismissal. However, Public Service Commission restrictions limited oversight authority to impose final discipline through dismissals. Several citizens' complaints alleging police corruption were lodged during the year. For example, in June residents of the town of Los Bajos appealed to the Commissioner of Police to protect them from three "rogue" police officers who allegedly made a practice of planting drugs on young men in order to arrest them. In Decem-

ber Allan Saran confessed to involvement in the kidnaping for ransom of a Port of Spain resident (subsequently freed) and identified two police officers as accomplices.

Prison conditions at two of the three largest men's prisons generally met international standards. However, conditions were worse at the Frederick Street Prison in Port of Spain, which dates from the 1830s. It was designed for 250 inmates but housed approximately 800 prisoners in December. Diseases such as chicken pox, tuberculosis, HIV/AIDS, and viruses spread easily, and prisoners had to purchase their own medication. The Commissioner of Prisons reported that the prison system held 4,090 inmates at year's end. Overcrowding was a problem in 4 of 8 facilities, where 2,290 inmates were housed in prisons built for 980. A new maximum security prison, opened in late 1998, has a capacity of 2,450. However, at year's end, it was not fully operational, held approximately 800 inmates, and had done little to relieve the overcrowding in the detention system.

On November 11, overcrowding caused a riot in the detention facility at the Port of Spain Magistrate's Court when officers attempted to house 80 detainees in cells built for 40 persons.

Pretrial detainees were held separately from convicted prisoners, although they could be in the remand section of the same facilities as convicted prisoners.

Conditions at the women's prison generally met international standards. Children between the ages of 15 and 19 were held at the Youth Training Center. Younger children were sent to the Boy's Industrial School.

The Government permitted prison visits by independent human rights observers, but the Ministry of National Security must approve each visit.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest or detention, and the Government generally observed this prohibition.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically brought the accused before a magistrate by way of a summons, requiring the accused to appear within 48 hours, at which time the accused could enter a plea. For more serious offenses, when the accused was brought before the court, the magistrate proceeded with a preliminary inquiry or, alternatively, committed the accused to prison on remand or allowed the accused to post bail until the inquiry. In practice, serious offenders also were charged within 48 hours following arrest.

The court could and did customarily grant bail to any person charged with any offense other than murder, treason, piracy, hijacking, or for any other offense for which death was the penalty fixed by law. In cases in which bail was refused, magistrates advised the accused of their right to an attorney and, with few exceptions, allowed them access to an attorney once they were in custody and prior to any interrogation. Police had the authority, under the Summary Courts Act, to grant bail to individuals charged with summary offenses. In July a Princes Town magistrate criticized police for applying this bail policy inconsistently, granting bail in some cases and refusing it in others.

In February the Government launched Operation Anaconda, a police action which promised to address the problem of crime through a new zero-tolerance policy. Press reports indicated the program had led to the arrests of more than 500 people by June. That month laborer Andy Anderson Ashby brought suit against the Attorney General alleging that he had been arrested in connection with an Operation Anaconda exercise and detained for almost 36 hours without being charged. At year's end, the Police Complaints Authority was still investigating Ashby's claim.

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for the detention. There were no reports that the authorities abused this procedure.

The Constitution prohibits forced exile, and it was not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary provided citizens with a fair judicial process.

The Judiciary was divided into a Supreme Court of Judicature and the Magistracy. The Supreme Court was composed of the Court of Appeal and the High Court; the Magistracy included the summary courts and the petty civil courts.

All criminal proceedings commenced with the filing of a complaint in the summary court. Minor offenses were tried before the magistrate. For more serious offenses, the magistrate must conduct a preliminary inquiry. If there was sufficient evidence to support the charge, the accused was committed to stand trial before a judge and jury of the High Court. All civil matters were heard by the High Court.

Both civil and criminal appeals may be filed with the local court of appeal and ultimately to the Privy Council in London.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforced this right. All criminal defendants had the right to an attorney. In practice the courts sometimes appointed attorneys for those persons charged with indictable offenses (serious crimes) if they could not retain one on their own behalf. The law requires that a person accused of murder have an attorney. An indigent person may refuse to accept an assigned attorney for cause and may obtain a replacement.

Despite serious efforts to improve the administration of justice, problems remained in some areas. Trial delays, while not as extensive as in past years, remained a problem: adults prosecuted for serious offenses were committed for trial or discharged in 2 to 3 years in capital cases or within 5 years in noncapital cases; minors were tried or discharged within 1 year. The High Court showed improvement in reducing trial backlogs, but they remained significant at the magistrate court level. To help improve efficiency, the courts introduced computer-aided transcription to more speedily and efficiently create a record.

The death penalty was mandatory in all murder convictions for persons 18 years of age or older; convicted minors were jailed pending a presidential pardon. In July Caribbean Justice, a nongovernmental organization (NGO), issued a statement that the law did not allow for consideration of mitigating factors in murder cases that might warrant a lesser sentence.

In 2000 Parliament passed the Integrity in Public Life Act, which established an Integrity Commission with jurisdiction and control over the financial activities and ethical conduct of persons in public life and persons exercising public functions. The act was used as the basis for investigations of the activities of several public officials, including former Prime Minister Panday, in the months prior to the October 7 elections. At year's end, Panday had been arraigned in Magistrate's Court, and a trial date set for early 2003. The Panday case was the first filed under the new act.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law prohibits such practices, and the Government generally respected these prohibitions in practice; however, citizens periodically complained of abuse of power by the state. In August Margaret Rowley of the town of Moruga claimed that local police forcibly entered her home to execute a search warrant and broke doors, a window, and furniture in the home.

On July 31, a court struck down as unconstitutional a section of the Proceeds of Crime Act of 2000, which gave police the power to inspect bank records of any individual upon the authority of a judge.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press and a functioning democratic political system combined to ensure freedom of speech and of the press.

The four major daily newspapers freely and often criticized the Government in editorials. Widely read weekly tabloids tended to be extremely critical of the Government. All newspapers were privately owned. The two local television newscasts, one of which appears on a state-owned station, were sometimes critical of the Government but generally did not editorialize.

Over the past several years, the Media Association of Trinidad and Tobago and the Publishers' Association expressed concern about the media's treatment by, and access to, the Government. For its part, the Government sometimes charged unfair treatment by the media, which the press viewed as unwarranted criticism.

A Board of Film Censors was authorized to ban films that it considered to be against public order and decency or contrary to the public interest. This included films that it believed may be controversial in matters of religion or race, or that contain seditious propaganda. In practice films rarely were banned.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. The police routinely granted the required advance permits for street marches, demonstrations, or other outdoor public meetings. Amendments to the Summary Offences Act require that permits for public meetings and rallies be applied for 48 hours in advance instead of 24 hours, and make it an offense to hold a public meet-

ing without a permit under the guise of conducting an exempted religious, educational, recreational, or sports function.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Registration or other governmental permission to form private associations was not required.

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

The Government limited the number of foreign missionaries allowed to enter the country to 30 per denomination. Missionaries had to meet standard requirements for an entry visa, must represent a registered religious group, and could not remain in the country for more than 3 years.

The Government was known to monitor closely only one religiously affiliated group, a radical Muslim organization called the Jamaat al Muslimeen, some members of which attempted a coup in 1990. The Government's surveillance focused on the group's repeated attempts to seize control of state-owned property adjoining its central mosque and on any actions intended to incite civil unrest.

Citizens occasionally complained about the efforts of some groups to proselytize in neighborhoods where another religion was dominant. The most frequent complaints came from Hindu religious leaders against evangelical and Pentecostal Christians. Such complaints mirrored the racial tensions that at times arose between the Afro-Trinidadian and Indo-Trinidadian communities.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

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

In 2000 the Government acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Because of legislative delays caused by the parliamentary deadlock during the year, the Government had not yet passed legislation to implement obligations accepted under the Convention, although the authorities generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). Until Parliament approves the legislation, the Ministry of National Security's Immigration Division handled any requests for asylum on a case-by-case basis; reportedly fewer than 10 had been received in the past 40 years. In practice, the authorities placed asylum seekers in the care of a local NGO pending resolution of their cases, which were reviewed by the office of the UNHCR.

During the year, there were two cases of first asylum. The authorities detained Sierra Leonean Alie Marah in prison for 15 months as an illegal immigrant. When Marah requested asylum, the Government released him to the NGO. The Government denied asylum to the second claimant, a Cuban national.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections, held on the basis of universal suffrage. The Constitution extends the right to vote to citizens as well as to legal residents at least 18 years of age who are citizens of other Commonwealth countries. Parliamentary elections were held at intervals not to exceed 5 years, and elections for the Tobago House of Assembly occurred every 4 years. The most recent general election was held on October 7, and observers found it to be generally free and fair.

The two major political parties were the People's National Movement and the United National Congress. The PNM was primarily but not exclusively Afro-Trinidadian; the UNC was primarily but not exclusively Indo-Trinidadian. General elections held on December 10, 2001, resulted in an evenly divided Parliament, with both major parties winning 18 seats in the 36-member House of Representatives. Both parties agreed to allow President A.N.R. Robinson to break the deadlock by appointing the Prime Minister. When the President appointed PNM leader Patrick Manning, the UNC called the decision unconstitutional and refused to participate in an agreement on the appointment of a Parliamentary Speaker, among other things. With the Parliament unable to form a majority, Manning called new elections for October 7. In spite of inflammatory campaigning by both parties, those elections proceeded peacefully and resulted in an uncontested 20 to 16 majority for the PNM. Following the elections, the authorities charged the campaign manager for one newly elected PNM parliamentarian with interfering with a ballot box.

There were other, unsubstantiated, complaints of interference at some polling stations.

There were no specific laws that restrict the participation of women or minorities in government or the political parties. Women comprised slightly more than half of all registered voters in the country, and the voters elected 7 women to the 36-seat House of Representatives on October 7, up from 6 women in the previous Parliament. There were 9 women in the 31-member Senate and 8 women in the 25-member Cabinet.

Both major political parties reached out to ethnic minority voters, and ethnic minorities occupied significant positions in government. Senator Howard Chin Lee, PNM member and Minister of National Security, and Gerald Yetming, Member of Parliament from the UNC, were both ethnic Chinese. Chinese were the third largest distinct ethnic group, representing approximately 1 percent of the population.

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

A number of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. While government officials generally were cooperative, the Government responded strongly to Amnesty International's criticism of prison conditions and due process. An independent Ombudsman received complaints relating to governmental administrative issues and investigated complaints of human rights abuse. The Ombudsman could make recommendations but did not have authority to force government offices to take action.

In 1998 the Government sought to curtail appeals by death row inmates to the Inter-American Commission on Human Rights (IACHR) and the U.N. Human Rights Committee. The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constituted cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government sought to impose time limits on the IACHR and the U.N. Committee to ensure that applications before these bodies were completed within 8 months. In 1999 the Government withdrew from the American Convention on Human Rights following a required 1-year notice.

However, the Privy Council subsequently ruled that by ratifying a treaty that provides for individual access to an international body, the Government made that process part of the domestic criminal justice system, thereby extending the scope of the due process clause of the Constitution, and that executing a prisoner with such an appeal pending would constitute a violation of due process.

In June the Inter-American Court of Human Rights cited the Government for violating the American Convention on Human Rights by executing inmates who had unresolved appeals pending before the IACHR and ordered the Government to pay more than \$2.9 million to the families and attorneys of several death row inmates. The Government contested the Court's findings, saying that the executions in question had been carried out in accordance with applicable law.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Government generally respected in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex.

Women.—Physical abuse of women continued to be a significant problem. There was increased media coverage of domestic abuse cases and signs of a shift in public opinion, which previously had held that such cases were a private matter, and the Government improved aid for victims. Murder, rape, and other crimes against women were reported frequently, but it was believed that many sexual crimes were unreported. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers were reportedly unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. The Police Service reported 565 complaints of spousal abuse through October, but the actual incidence of such abuse was considered to be much higher. Two government ministries, operating independently, directed the NGOs that ran most of the country's social programs addressing domestic violence, including five shelters for battered women.

Rape, spousal abuse, and spousal rape were criminal offenses. A rape crisis center offered counseling for rape victims and perpetrators on a voluntary basis. Since 1996 the Government operated a 24-hour domestic violence hot line, which received calls and referred victims to shelters, counseling, or other assistance. The hot line was for victims of rape, domestic violence, or other violence against women and received approximately 1,650 calls during the year.

Prostitution is illegal, and the authorities brought charges of soliciting for the purpose of prostitution against 19 persons during the year. Of those, 18 were female and 1 male.

The law does not prohibit sexual harassment, and it was a problem.

Many women held positions in business, the professions, and government. Nevertheless, men still tended to hold most senior positions. There was no law or regulation requiring equal pay for equal work.

Women's participation in education has been virtually equal to that of men, according to a UNESCO report, which showed that women's literacy rates and primary school enrollment in the country during 1990–98 were almost the same as the corresponding rates for males, with women exceeding men in years spent in school and in secondary school enrollment ratios.

The Division of Gender Affairs in the Ministry of Community Development and Gender Affairs was charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also existed.

Children.—The Government's ability to protect children's welfare was challenged by a lack of funds and expanding social needs. Education was free and compulsory through primary school, usually ending at 11 or 12 years of age. Some parts of the public school system seriously failed to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. The Government committed resources to building new facilities and expanded access to free secondary education.

There was no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. If they were removed from the home, abused children usually were placed with relatives. If there was no relative who could take them, there were several government institutions and NGOs that accepted children for placement.

The Miscellaneous Provisions (Children) Act of 2000 increased the upper age in the definition of a child from 14 to 18 years of age, abolished corporal punishment as a penal sanction for children under 18, and prohibited sentencing a person between 14 and 18 years of age to prison. A companion law established a new Children's Authority to license and monitor community residences, foster homes, and nurseries, and to investigate complaints about the care of children in such locations. At year's end, the act had not yet been proclaimed, as the Government was taking steps to appoint a board to manage the new authority.

The law prohibits child prostitution, and the police reported no cases of it during the year. However, there were anecdotal but unconfirmed reports of child prostitution in the recent past (see Section 6.f.).

Persons with Disabilities.—There is no legislation that specifically enumerates or protects the rights of persons with disabilities or mandates the provision of access to buildings or services. The lack of access to transportation, buildings, and sidewalks was a major obstacle for persons with disabilities. The Government provided some public assistance and partial funding to a variety of NGOs, which in turn provide direct services to members or clients with disabilities.

Indigenous Persons.—Members of a very small group in the population identify themselves as descendants of the original Amerindian population of the country. They maintain social ties with each other and other aboriginal groups and were not subject to discrimination.

National/Racial/Ethnic Minorities.—Various ethnic and religious groups live together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appeared between Afro-Trinidadians and Indo-Trinidadians, which each make up about 40 percent of the population. The private sector was dominated by Indo-Trinidadians and persons of European, Middle Eastern, or Asian descent. Indo-Trinidadians predominated in agriculture. Afro-Trinidadians were employed in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians asserted that they were excluded from equal representation in the civil service due to racial discrimination.

Section 6. Worker Rights

a. The Right of Association.—The 1972 Industrial Relations Act (IRA) provides that all workers, including those in state-owned enterprises, may form or join unions of their own choosing without prior authorization. The IRA provides for the mandatory recognition of trade unions when a union satisfies the Registration Recognition and Certification Board that it represents 51 percent or more of the workers in a specified bargaining unit. Union membership has declined, with an estimated 15 to 25 percent of the work force organized in approximately 19 active

unions. Most unions were independent of government or political party control, although the Sugar Workers' Union historically was allied with the UNC.

The law prohibits antiunion activities before a union is registered legally, and the Ministry of Labor enforced this provision when it received a complaint. A union also may bring a request for enforcement to the Industrial Court, which may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation or impose other penalties including imprisonment. When necessary the Ministry of Labor's conciliation service determines which unions should have senior status.

Unions freely joined federations and affiliated with international bodies. There were no restrictions on international travel or contacts.

b. The Right to Organize and Bargain Collectively.—The IRA establishes the right of workers to collective bargaining. The conciliation service maintained statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

All employees except those in "essential services," which include the police and many other government employees, had the right to strike. The International Labor Organization (ILO) has criticized the Government's definition of essential services as being overly broad and has requested that the legislation be amended. There were significant strikes during the year, including a 9-day work stoppage by physicians employed by the Ministry of Health. The Industrial Court found that the action violated the prohibition against denying essential services. The doctors denied that their work stoppage constituted a strike but returned to work after a court injunction. In October and November, approximately 2,000 construction workers went on strike at a methanol plant at Point Lisas.

The Labor Relations Act prohibits retribution against strikers and provides for grievance procedures if needed. A special section of the Industrial Court handles mandatory arbitration cases. Arbitration agreements are enforceable and can be appealed only to the Industrial Court. Most observers considered this court to be impartial; it consisted of government, business, and labor representatives.

There were several export processing zones (EPZs). The same labor laws applied in the EPZs as in the rest of the country.

c. Prohibition of Forced or Bonded Labor.—The law does not prohibit specifically forced or bonded labor, but there were no reports that it was practiced. There were also no reports of forced or bonded labor by children.

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may work only in family businesses. Children under the age of 18 legally may work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The Ministry of Labor and Small and Micro-Enterprises was responsible for enforcing child labor provisions, but enforcement was lax because there were no established mechanisms for receiving, investigating, and addressing child labor complaints.

There was no organized exploitation of child labor, but a UNICEF study estimated that 1.2 percent of children from 5 to 14 years of age were engaged in paid work, and that 0.3 percent were engaged in unpaid work for someone other than a family member. An ILO study reported that children engaged in several types of work, including scavenging, agriculture, domestic work, street vending, and commercial sexual activity.

The Government has not ratified ILO Convention 182 on elimination of the worst forms of child labor.

e. Acceptable Conditions of Work.—The 1998 Minimum Wages Act established a minimum wage of about \$1.10 (TT\$7.00) per hour. Actual wages varied considerably among industries, and while the minimum wage did not provide a decent standard of living for a worker and family, most workers earned more than the minimum. The Ministry of Labor enforced the minimum wage regulations.

The Minimum Wages Act also established a 40-hour workweek, time-and-one-half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days, the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave formed part of most employment agreements.

The Factories and Ordinance Bill of 1948 sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The IRA protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

f. Trafficking in Persons.—While there were no laws that specifically address trafficking in persons, the illegality of such acts was covered broadly in a variety of laws that addressed kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude.

Although child prostitution was illegal and the police reported no cases of it during the year, the ILO and some local officials provided anecdotal but unconfirmed reports of child prostitution in the recent past.

URUGUAY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. In 1999 in free and fair elections voters elected Senator Jorge Batlle of the Colorado party as President; he assumed office on March 1, 2000, for a 5-year term. In legislative elections in 1999 the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control over half of the seats in the legislature. The judiciary is independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. Civilian authorities exercise effective control over the security forces. There were reports of police violence, including abuse of prisoners in the jails and in police stations, which were investigated by the Ministry of the Interior.

The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The leading exports are meat, leather, and rice. The country's population is estimated at 3.2 million. The unemployment rate was 20 percent at year's end. The economy contracted by 7.8 percent in the first half of the year, following a decline of 1.3 percent in 2001.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provided effective means of dealing with individual instances of abuse; however, there were problems in some areas, principally poor prison conditions and delays in the judicial process. Court cases sometimes last for many years, resulting in lengthy pretrial detention. Violence against women and some discrimination against women and the black minority were problems. There were several reports of trafficking in persons. Uruguay was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary and Unlawful Deprivation of Life.—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents. At least 14 prisoners died at the hands of other prisoners or in suspicious circumstances (*see* Section 1.c.).

The 1986 Amnesty Law prohibits criminal prosecution of members of the security forces who perpetrated extrajudicial killings, torture, and other abuses during the 12 years of military rule from 1973–85. However, some victims and relatives of victims had success using the civilian courts to seek redress. Court actions that sought to work around the Amnesty Law included a lawsuit filed in August by Argentine poet Juan Gelman and the potential prosecution of officials in the Ministry of Foreign Affairs during the dictatorship.

In a new attempt to bring accountability for human rights violations committed by the military government, on October 18, a criminal court issued an indictment for deprivation of liberty against former Minister of Foreign Affairs, Juan Carlos Blanco in connection with the disappearance of Elena Quinteros, who was allegedly abducted from the Venezuelan Embassy in 1976. Documents reportedly implicated Blanco and two other former Foreign Ministry officials, who are not covered by the Amnesty Law, in the decision not to return Quinteros to the Venezuelans with whom she had sought asylum.

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

The 1986 Amnesty Law required the Government to investigate the fate of those citizens who were detained and who then disappeared during the dictatorship; the first three administrations following the return to democracy consistently refused to

do so. In 2000 the Government for the first time undertook such an effort, and these efforts continued during the year.

In 2000 President Batlle created a National Peace Commission to clarify the fate of 179 Uruguayans believed to have disappeared for political reasons during the dictatorship (137 in Argentina, 30 in Uruguay, 7 in Chile, 3 in Paraguay, 1 in Bolivia, and 1 in Brazil). The Commission was charged with receiving and analyzing information relevant to the disappeared persons. It was to prepare individual summaries of its conclusions as to the fate of each person and to recommend legal measures that the Government should adopt to compensate the families of the victims and resolve the victims' legal status, such as by declaring them legally dead. By year's end, the Peace Commission had resolved or reported to families on 24 of 30 cases. The Commission's final report—published in November—concluded that the fates of 20 percent of the missing Uruguayans was probably cremation and burial at sea.

Some persons have sought justice in non-Uruguayan courts for human rights violations that occurred during military rule. During the year, Sara Mendez—who had filed papers in an Argentine court accusing five retired members of the Uruguayan military with the 1976 kidnaping of her infant from her Buenos Aires home—was reunited with her son in Buenos Aires, largely through the efforts of an Uruguayan senator.

An Italian prosecutor continued to investigate charges brought in an Italian court in 1999 against four present and former members of the military and one police officer accused of responsibility in the disappearance of eight Italian-Uruguayan dual nationals.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were reports of abuse of prisoners, many of which have been investigated by the Government.

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it is understaffed and only can issue recommendations for disciplinary action. Ministry of Interior authorities act promptly if accusations of alleged police brutality are reported. Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes are separated from active service until a court resolves their cases. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, and this law was respected in practice.

At least eight police officers were jailed for abusing detainees in Maldonado and Salto. Over 400 police officers reportedly have been indicted in the last 3 years for violations ranging from corruption to abuse. There were also numerous reports of abuse of prisoners inside the prison system. Human rights groups and an organization of the families of prisoners filed several complaints about abuse, including routine beatings in processing; routine hazing and beatings of prisoners during searches; poor quality and insufficient quantities of food, bedding, and clothing; and poor access to medical care.

Conditions in prisons were poor and deteriorated in the last year. Due to worsening budget problems and the destruction of Libertad prison during a riot in March, overcrowding increased. There were 5,400 prisoners in prison facilities designed to hold only 2,940 prisoners, causing sanitation, social, and health problems in the major facilities. In March a prison riot lasting several days in Libertad prison in San Jose Province left the prison mostly uninhabitable. Despite its current official capacity of zero, several hundred prisoners continued to be housed within the ruined prison. As a temporary solution, the Government resorted to lodging some of the overflow prisoners within modified shipping containers. To alleviate overcrowding, the Government purchased modular cells providing secure, sanitary holding facilities for up to 600 prisoners. A new director of prisons, reported to be "tough but fair," has undertaken to correct some of the causes of the riot problem by ending corruption and unfair practices. The director announced that in the event of another riot, the guards will be instructed to use arms as necessary to suppress the riot.

In addition to overcrowding, the penal system suffered from understaffing, instances of corruption, and physical violence. In April National Prison director Carlos de Avila and other officials were convicted of taking bribes in exchange for transferring prisoners to better facilities. Narcotics, weapons, and cell phones were smuggled into several facilities, allegedly with the collusion of an official. Family visitation, in which family members carry in food to supplement a prisoner's diet, was allowed but is made very difficult as the family members are strip-searched in unhygienic conditions and subjected to invasive searches.

Prison deaths rose sharply. In the first half of the year, 14 prisoners died in hangings, stabbings, or burnings either self-inflicted or perpetrated by other prisoners.

In the 2 months following the riot in Libertad and the subsequent replacement of the prison's director, five inmates died, resulting in an official investigation urged by the nongovernmental organization (NGO) Servicio Paz y Justicia (SERPAJ) and the families of the victims. While there was no evidence of staff involvement in these deaths, prisoners and their families complained of institutionalized physical abuse in some facilities. Prisoners were not always separated according to the severity of their crimes. Human rights organizations were not given free access to the prisons; the Government cited safety concerns as the reason.

According to press reports and the regional AIDS rights organization ASEPO (Asociacion de Ser Positivo), the majority of prisoners infected with HIV and AIDS did not receive adequate treatment or medication. The extent of the infection and transmission rates of the disease within the inmate population was unknown.

Female prisoners were held in separate facilities from male prisoners with the exception of the Artigas prison, in which women were housed in a separate facility within the prison. In general conditions for female prisoners were significantly better than for male prisoners due to their smaller population and the availability of training and education opportunities.

Minors were held in institutions operated by the National Institute for Minors (INAME). While it is legal to house juvenile prisoners convicted of violent crimes within the same prisons as adults, this was not done in practice. Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. However, conditions in some of these facilities were as bad as in the adult versions, with some youths permitted to leave their cells only 1 hour per day.

Juvenile offenders who were not considered to pose a threat to society were placed in halfway house facilities, oriented towards rehabilitation. These facilities provided educational, vocational, and other opportunities, and the juvenile offenders were able to enter and leave without restriction. Some human rights groups expressed concern with reports that the Ministry of the Interior was considering mixing youth and adult populations, such as at La Tablada, a facility run by the National Institute for Minors (INAME).

The Government—citing safety reasons—did not permit general prison visits by independent human rights observers during the year. However, inmate visitation continued and foreign diplomats could visit prisons.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respected this provision in practice. The only exception is when the police apprehend the accused during commission of a crime. The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. In 2000 the President signed a new law that obligates police officers to inform individuals of the reason for their arrest. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. It was during this period of time that police sometimes abused detainees.

The law stipulates that confessions obtained by the police before a detainee appears before a judge and attorney (without the police present) have no validity. Further, should a detainee claim that he has been mistreated, by law the judge must investigate the charge.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail (which seldom happens). As a result, in 2000 approximately 73 percent of all persons incarcerated were awaiting a final decision in their case. However, these figures may be misleading because only those committing more serious crimes were actually jailed while waiting for the judge to investigate charges. The majority of people facing charges were not jailed. The length of time the accused spends in jail pending trial also varies depending on the complexity of the case and the size of the judge's docket. The uncertainty respecting length of imprisonment contributed to tension in the prisons.

The Government does not use forced exile. The Constitution provides that in extreme cases of national emergency an individual may be given the option to leave the country as an alternative to trial or imprisonment; however, this option has not been exercised for at least 2 decades.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which are not made public routinely. Only the judge, prosecutor, and defense attorney have access to all documents that form part of the written record. Individual judges may hear oral arguments at their option. Most judges choose the written method, a major factor slowing the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

A 1997 law to reform and modernize the Criminal Code provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and is expected to accelerate the pace of criminal trials. Budget constraints resulted in postponement of the law's implementation to 2004.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press; however, the authorities sometimes limited freedom of the press and the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.” All elements of the political spectrum freely expressed their viewpoints in both print and broadcast media.

Montevideo has 5 daily newspapers and 10 widely read weeklies; there are also approximately 80 other weekly and a few daily newspapers throughout the country. Montevideo has one government-affiliated and three commercial television stations. There are about 150 radio stations, 34 television stations, and 200 cable television stations in the country.

The law stipulates that expression and communication of thoughts and opinions are free, within the limits contained in the Constitution, and it outlines methods of responding to “inexact or aggravating information.” The law provides for between 3 months’ and 2 years’ imprisonment for “knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State” or for “insulting the nation, the State, or their powers.” The authorities rarely used this law and did not do so during the year.

Human rights activists and journalists alleged that state enterprises such as the telephone and electric companies on occasion withheld advertising from independent media that were critical of the Government and favored media friendly to the Government with extensive paid advertising. There were a few reports that stories critical of the Government were edited to be less critical or dropped altogether. There were reports of at least two journalists who were fired for criticizing the Government too harshly.

Access to the Internet was available and unrestricted.

The national university is autonomous, and 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.

In May, as in prior years, thousands of persons marched in memory of the persons who disappeared during the rule of the dictatorship (*see* Section 1.b.). Several demonstrations, including relatively large rallies and marches, protested the Government’s decision to condemn Cuba for human rights violations. The demonstrators were allowed to march and express themselves freely. Protests and demonstrations about economic conditions, labor issues, bio-technical issues, and student issues took place without interference.

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

There is a strict separation of church and state, and religious instruction in public schools is prohibited.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

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

The Government grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government grants first asylum in cases in which a refugee's claims are verified by the UNHCR. The Government continued to cooperate with international organizations to provide temporary residence to human rights advocates who claim that they are subject to persecution in their home country; if still at risk after 1 year, the person may apply for refugee status.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution 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 country is a multiparty democracy with mandatory voting for those 18 years of age or older. The Colorado party, the National (Blanco) party, and the Broad Front coalition are the major political groupings.

In November 1999, in free and fair elections, voters elected Senator Jorge Batlle of the Colorado party President, and he assumed office on March 1, 2000, for a 5-year term. In legislative elections in October 1999, the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together controlled over half of the seats in the legislature.

Women participated actively in the political process and government. Three of 30 senators and 13 of 99 deputies were women. None of the 13 cabinet ministers were women. There were no female justices on the Supreme Court.

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 are generally cooperative and responsive to their views.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability. Despite these provisions, societal discrimination against some groups existed.

Women.—Violence against women continued to be a serious problem. A 1999 Ministry of Public Health study projected that within 5 years, domestic violence would constitute the second most prevalent threat to public health, after traffic accidents. The law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The state-owned telephone company provided a free nationwide hot line answered by trained NGO employees for victims of domestic violence. Between January and September, the service received 2,596 calls, a rate lower than in previous years. Persons calling the hot line were provided counseling, free legal advice, and may be referred to NGOs that can provide further social services. A 2000 law increased sentences for rape and certain other sexually related crimes. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely were initiated for those crimes.

A government office of assistance for victims of domestic violence trains police how to resolve complaints of violence against women. A directorate within the Ministry of Interior continued a public awareness campaign about domestic violence and operated community assistance centers where abuse victims receive information and referrals to government and private organizations in their area that aid abused women. Both the Ministry of Interior and NGOs operated shelters in which abused

women and their families could seek temporary refuge. However, the country's economic crisis threatened assistance to an increasing number of victims of domestic violence, as lack of funding led to closure of a number of centers.

The law prohibits sexual harassment in the workplace; however, few such complaints were filed, leading some to conclude that it was not a problem.

Women enjoyed equality under the law in the workplace but faced discrimination stemming from traditional attitudes and practices. However, there never have been any cases brought under the law. The work force exhibited segregation by gender. Women, who made up almost one-half the work force, tended to be concentrated in lower paying jobs. Women's salaries averaged two-thirds those of men, continuing a gradual improvement with respect to pay equity. Approximately 60 percent of the students at the public university were women. Women often pursued professional careers but were underrepresented in traditionally male-dominated professions.

In 2000 the first four female military officers were commissioned by the air force, and in 2001 the first four female cadets graduated from the army's military academy.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities remained centered on followup to the platform of action of the 1995 U.N. Conference on Women.

Children.—The Government generally is committed to protecting children's rights and welfare, and it regarded the education and health of children as a top priority. The National Institute for Minors (INAME) oversees implementation of the Government's programs for children but receives only limited funding for programs. The Government provided free compulsory kindergarten, primary, and secondary education, and 95 percent of children completed their primary education. Girls and boys were treated similarly. Free education was available through the undergraduate level at the national university.

There is no societal pattern of abuse of children. Minors under the age of 18 are not subject to criminal trial but receive special treatment with special judges and, when sentenced, stay in institutions run by INAME for the period determined by the judge; these institutions emphasize the rehabilitation of minors. INAME maintained an extensive network of programs, including shelters for at-risk children. INAME also operated a confidential hot line for children who were victims of domestic abuse.

UNICEF estimated that 40 percent of children under the age of 5 live in the poorest 20 percent of homes. While health care is free to all citizens, the Government with the help of UNICEF has undertaken a program to educate parents regarding the need for regular checkups and immunization.

Although there were few substantiating statistics, polls and arrests of children participating in sexual work indicated that child prostitution existed. INAME has never conducted research on the subject of child prostitution, and no NGO specifically addressed the problem (see Section 6.f.)

The State of Maldonado announced that child prostitution and sexual tourism had increased and identified 70 locations where this had occurred. For the first time, there were isolated reports of male prostitution. The economic crisis impacted child prostitution. Anecdotal evidence indicated that in recent years child prostitution has increased, especially in the interior of the country. Children's rights NGOs and the media received reports that minors resorted to prostitution as a means of survival in rural areas where unemployment was more than 20 percent.

In Montevideo police discovered a child prostitution ring involving 40 minors with children as young as the age of 13. Additionally, according to NGO experts, 30 of 83 of the "massage spas" in Montevideo worked with children and adolescents, many of whom were contracted out to clients as prostitutes. The minimum working age in these "spas" is 16, but children as young as 13 were found.

Prostitution is legal in Uruguay, and there is no law specifically prohibiting participation by minors. The Government created the Interdepartmental Commission for the Prevention and Protection of Children Against Sexual Exploitation, which—with INAME—is responsible for creating the national plan of action. In March the commission announced the plan, which includes education programs.

Persons with Disabilities.—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services.

A national disabilities commission oversees implementation of a law on the rights of persons with disabilities. Although the law mandates accessibility for persons with disabilities only to new buildings or public services, the Government provided access to a number of existing buildings. The law reserves 4 percent of public sector

jobs for persons with disabilities. The country has a generally excellent mental health system and an interest in the rights of persons with mental disabilities.

National/Racial/Ethnic Minorities.—The country's Afro-Uruguayan minority, estimated at 5.9 percent of the population, continued to face societal discrimination. A 1999 study by the NGO Mundo Afro found that the illiteracy rate among black women was twice the national average, that the percentage of black women who had pursued higher education was one-third that of the general population, and that one-half of Afro-Uruguayan women worked as household domestics. With the exception of an alternate deputy, there were no Afro-Uruguayans in Congress, and blacks were practically unrepresented in the bureaucratic and academic sectors.

Section 6. Worker Rights

a. The Right of Association.—The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies; however, there is almost no legislation specifically entitling workers to form and join unions of their choice. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. Unionization was high in the public sector (over 80 percent) and low in the private sector (under 5 percent). Labor unions were independent of political party control but traditionally associated more closely with the left-of-center Broad Front political coalition.

A Ministry of Labor commission investigates antiunion discrimination claims filed by union members. There have been no such claims since 2000. Labor unions have complained that some businesses have encouraged formation of worker cooperatives, which served to reduce their labor costs. Although such cooperatives did not necessarily affect workers' social insurance and other public benefits, this outsourcing could reduce workers' job security, result in a loss of seniority, and weaken the power of trade unions and of collective bargaining.

There are mechanisms for resolving workers' complaints against employers, but unions complained that these mechanisms sometimes were applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintained that organizers were dismissed for fabricated reasons, thus allowing employers to avoid penalties under the law.

At the International Labor Organization's (ILO) Governing Body meeting in March, the Association of Workers and Employees brought allegations against the Government concerning antiunion measures, involving collective bargaining and disciplinary measures against trade union officials and workers. At the ILO's governing meeting in June, the Association of Bank Employees of Uruguay brought allegations against the Government concerning antiunion dismissals, threats of dismissal, and irregular denouncement of a collective agreement. Both complaints remained pending at year's end.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation has chosen not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

b. The Right to Organize and Bargain Collectively.—Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities and does not require employers to pay an indemnity to such workers. In cases of legal challenges by union members for unlawful firings, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers. The ILO's Committee of Experts found that imposition of a fine "provided for by law in all cases of unjustified dismissal when the real motive is trade union membership or activity" is an inadequate protection against anti-union discrimination.

The Constitution provides workers with the right to strike. The Government may legally compel workers to work during a strike if they perform an essential service which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society." A few strikes took place in the transportation and education sectors. The University of the Republic was shut down by a student union strike lasting more than a month.

All labor legislation fully covers workers employed in the eight special export zones. There are no unions in these zones because the few workers employed there were not in traditionally organizable occupations, that is, one in which a number of workers are employed in a non-professional capacity.

c. Prohibition of Forced or Bonded Labor.—The Constitution prohibits forced or bonded labor, including by children, and the Government generally enforced this prohibition effectively; however, there was one report that one child was trafficked into forced labor (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the law. Some children worked as street vendors in the expanding informal sector (which accounts for 48 percent of total employment in the country) or in the agrarian sector, which generally were regulated less strictly and where pay was lower. The law does not permit minors under the age of 14 to work, and this was generally enforced in practice. Minors between the ages of 14 and 15 were granted permission to work only in extremely rare circumstances and even then usually only to work with other members of their families. Minors between the ages of 15 and 18 require government permission to work, and such permission is not granted for dangerous, fatiguing, or night work.

Permission to work is only granted to minors who have completed 9 years of compulsory education or who remain enrolled in school and are working toward completing the period of compulsory education. Controls over salaries and hours for children are more strict than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. A program by INAME and an NGO to pay \$83 (1,000 pesos) per month to parents who take their children off the streets and send them to school continued during the year. This amount approximated what a child might earn working on the street. In 1999 the Government created a National Committee for the Eradication of Child Labor, which continued to work on creating a national action plan to combat child labor.

e. Acceptable Conditions of Work.—The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, set in 2001 at approximately \$80 (1,092 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family. The vast majority of workers earn more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, in order to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—worked off the books and thus forfeited certain legal protections.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions.

f. Trafficking in Persons.—There are no laws specifically addressing trafficking in persons; and there were some infrequent cases involving trafficking of women and, particularly, child prostitution (see Section 5).

Trafficking workers from other South American countries continued. Police arrested persons involved with the trafficking and false documentation of Peruvian women in Uruguay. Some women were employed as domestics, fulfilling a demand for cheap, full-time household labor. The women were recruited in Peru, provided transportation and documentation, obliged to repay the traffickers over time, often exceeding 5 years. Others, destined for the United States, were provided with falsified birth certificates to obtain national identification cards and Uruguayan passports. While 6 women in the ring were arrested, authorities estimated that more than 20 Peruvians might have been trafficked through the country in this manner. One Peruvian minor captured during the arrest was repatriated.

More than eight Cuban nationals were detained for using false documents provided by traffickers, allegedly in the United States.

Isolated cases of trafficking in persons for labor were reported. Five Indonesian workers from a South Korean fishing vessel alleged that their employers beat them, subjected them to 94-hour work weeks, and set them ashore when in port to avoid feeding and caring for them. Foreign consular officials confirmed that these allega-

tions were not uncommon in the region but stated that lack of involvement by the host countries made such practices difficult to detect and prevent.

There were no reliable estimates on the number of Uruguayan women who worked as prostitutes abroad—generally in Europe and Australia—or on the proportion who were induced into such work by fraud or were subjected to conditions approaching servitude. Families of three women who disappeared from Maldonado in the last decade (the last in 2000) renewed demands for an investigation of the disappearances. Recent reports of disappearances among young females in Maldonado gave rise to speculation that the three women may have been trafficked to Europe.

The Ministry of the Interior has primary responsibility for investigating trafficking cases.

VENEZUELA

Venezuela is a constitutional democracy with a president and unicameral legislature in which citizens periodically choose their representatives in free and fair multiparty elections. In addition to the executive, legislative, and judicial branches of government, the Constitution provides for a “Citizen Power” branch of government—which includes the Ombudsman, the Public Prosecutor, and the Controller General—and an “Electoral Power” branch, the National Electoral Council (CNE). In July 2000, following a long and controversial process, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento a Socialismo (MAS) party won 92 seats in the 165-member legislature. Subsequent party splits reduced the pro-Chavez members to 84 seats. In December 2000, the National Assembly appointed members of the Citizen Power and Supreme Court in a manner that many observers criticized as unconstitutional. The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges at all levels were subject to influence from a number of sources, including the executive branch.

In April the country experienced a temporary alteration of constitutional order. When an estimated 400,000 to 600,000 persons participated in a march in downtown Caracas to demand President Chavez’s resignation, gunfire broke out, resulting in as many as 18 deaths and more than 100 injuries, with dead and injured on both sides. Military officers took President Chavez into custody, and opposition business leader Pedro Carmona proclaimed himself as interim president. On April 14, troops loyal to Chavez returned him to power.

On December 2, the political opposition called a national work stoppage to protest the Government and for the resignation of President Chavez. On December 4, the petroleum sector joined the stoppage, which continued at year’s end.

The security apparatus includes civilian and military elements, both accountable to elected authorities. Active and retired military officers held high-ranking government positions. Two of the 14 members of the President’s Cabinet were retired career military officers. The presidents of two major state-owned corporations—Corporacion Venezolana de Guayana and CITGO—were active duty military officers. The military was involved heavily with public service projects. The Defense Ministry controls the General Directorate for Military Intelligence (DIM), which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for maintaining public order, guarding the exterior of key government installations and prisons, conducting counternarcotics operations, monitoring borders, and providing law enforcement in remote areas. The Interior and Justice Ministry controls the Investigative and Criminal Police Corps (CICPC), which conducts most criminal investigations, and the Directorate for Intelligence and Prevention Services (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. Municipal mayors and state governors are responsible for local and state police forces, and maintain independence from the central government. Often, mayors and governors look to the National Guard for the top leadership for state and municipal police forces. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and was headed by a career police officer, rather than a military officer. The Government intervened in the administration of the Metropolitan Police in November, alleging that the police force was repressing pro-government protests. The issue was not resolved at year-end. While civilian authorities generally maintained effective control over security forces, members of the security forces committed numerous and serious human rights abuses during the year.

The country has abundant natural resources and a market-based economy; however, the vast majority of natural resource extraction and production was done by

entities owned and operated wholly or in part by the Government. The country's population was approximately 24.9 million. Oil accounted for 26 percent of gross domestic product (GDP), 48 percent of government revenues, and 80 percent of the country's exports in 2001. Following economic growth of 2.8 percent in 2001, the country experienced a severe economic crisis. Severe political unrest disrupted productivity and discouraged investment. The Government faced a strong recession with negative growth of 7.1 percent in the first half of the year, a significant budget deficit (approximately 7 percent of GDP), a sharply depreciated currency (nearly 100 percent), and an inability to obtain financing in international markets. A national work stoppage interrupted oil production, closed ports to imports and exports, and disrupted domestic production throughout December. Official figures place overall negative growth for the year at 7 percent; unofficial estimates range up to 9 percent. Wages did not keep pace with inflation, which exceeded 40 percent during the year. In addition, income was distributed unevenly, with approximately 60 percent of the population living at or below the 2001 poverty line of \$500 monthly per household.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The police and military committed extrajudicial killings of criminal suspects. The police allegedly had links to vigilante death squads responsible for dozens of killings in seven states. Investigations into the forced disappearances by the security forces of criminal suspects remained extremely slow. Torture and abuse of detainees persisted, and the Government failed to punish police and security officers guilty of abuses. Prison conditions remained harsh; violence and overcrowding was so severe as to constitute inhuman and degrading treatment. Arbitrary arrests and detentions increased. Impunity was one of the country's most serious human rights problems. Police rarely arrested suspects, and when they did, the suspects often were soon set free. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Lengthy pretrial detention and corruption and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government conducted illegal wiretapping of private citizens. Government intimidation was serious problem. The President, officials in his administration, and members of his political party frequently spoke out against the media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many persons interpreted these remarks as tacit approval of violence, and they threatened, intimidated, or even physically harmed several individuals from groups opposed to Chavez during the year. The Government abused its power to require television and radio stations to air numerous speeches by President Chavez, other government officials, and other programming favorable to the Government, and by cutting the transmission of television stations that refused to air progovernment material on April 9–11. Violence and discrimination against women, abuse of children, discrimination against people with disabilities, and inadequate protection of the rights of indigenous people remained problems. Although concern over labor rights remained, the atmosphere for independent labor unions remained good. Child labor increased as economic conditions worsened. Trafficking in persons was a problem, although the Government took steps to reduce corruption among immigration authorities. Venezuela was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life.—There were no reports of political killings; however, members of the political opposition received death threats and were the victims of intimidation by government supporters. The security forces continued to commit extrajudicial killings, primarily of criminal suspects, although at a lower level than 2001. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a respected human rights nongovernmental organization (NGO), documented 137 extrajudicial killings from October 2001 through September, compared with 212 killings from October 2000 to June 2001. These figures reflected a range of killings in different situations committed by organizations with varying levels of control and responsibilities and included summary executions of criminal suspects and deaths resulting from mistreatment while in custody. Police continued to fire on criminal suspects who disobeyed orders to halt.

The Government rarely prosecuted perpetrators of extrajudicial killings. The police often failed to investigate crimes allegedly committed by their colleagues and characterized incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicated otherwise. In addition, the civil-

ian judicial system struggled to implement the 1999 Organic Criminal Procedures Code (COPP) and remained highly inefficient and sometimes corrupt (*see* Section 1.e.). In the small number of cases in which the courts convicted perpetrators of extrajudicial killings and other abuses, sentences frequently were light, or the convictions were overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spent much time in prison.

Federal and state police continued to investigate vigilante “death squads” with apparent police ties that may be responsible for up to 48 killings in several states, including Portuguesa, Yaracuy, Anzoategui, Bolivar, Miranda, Aragua, and Falcon. In almost all cases, the victims were young, poor, and had criminal records. According to NGO reports, oftentimes the killers first demanded money from the victims, and when they were not able to pay, they were killed.

In October 2001, Human Rights Ombudsman German Mundarain called for “urgent intervention” by the federal government into the operations of state level police in seven states, in response to what he termed increasing numbers of extrajudicial killings that may have police connections. Neither the Attorney General’s office nor the Ministry of the Interior acted. In conjunction with human rights NGO Red de Apoyo, the Human Rights Ombudsman’s office conducted training sessions for the police in Portuguesa. According to the Public Ministry, there were 38 extrajudicial killings or forced disappearances in 18 of the country’s 23 states during the year.

The majority of extrajudicial killings by security forces were attributed to state and municipal police forces that report to local officials and often had little training or supervision. The killings often involved a person mistaken for a criminal or alleged to have committed a crime. In other cases, human rights organizations reported that police officers acted at the behest of criminals who paid the officers to kill their enemies for them. There historically had been no investigation into these cases, but the CICPC investigated some cases during the year.

On April 15, municipal police officers from the town of Caroni shot 33-year-old Luis Beltran Yendis, according to human rights NGO Humana Dignitas. Beltran told the officers he had never had trouble with the police before. The police took Mr. Beltran outside where he was overpowered and then shot in the legs. Neighbors and family members witnessed the officers taking custody of Beltran, who was otherwise in good condition. At the police station, family members were told he had died of two gunshot wounds to the chest and could be found at the city morgue. There was no investigation reported.

Humana Dignitas also reported that on June 8, officers from the Special Operations Tactical Brigade (BTOE) of Ciudad Guayana shot 35-year-old labor activist Milton Jose Zuleta after he exited his home with his arms raised. At an officer’s order, he turned around and then was shot and beaten by one of the officers. Mr. Zuleta’s wife called for help; she was restrained by another police officer. When she tried to go outside to see her husband, she was hit in the head with the butt of the officer’s gun. Zuleta was shot again and taken into custody. He later died. Medical reports indicated that he died from 10 bullet wounds. Humana Dignitas received information leading them to believe Zuleta was targeted for murder because of his activity in his labor union.

Humana Dignitas reported that on April 19, in San Felix, Bolivar state, municipal police forces killed 15-year-old Jose Gregorio Lopez without provocation while he was riding his bicycle. Witnesses reported seeing an officer plant a gun beneath a tree. The case was awaiting trial at year’s end.

In August the press reported that officers from the CICPC began an investigation into the deaths of two persons who died in police custody. CICPC officers took Henry Alberto Marimon Villafane and Jose Antonio Gordon into custody in El Tigre, Anzoategui state. Police later discovered their charred bodies in a burned out car that belonged to one of the victims. There was no action taken in this case.

In September the press reported that officers from the Libertador municipality police force killed 22-year-old Adolfo Arcia and 19-year-old Elvis Montesinos. The officers had stopped the two men and their friends as they were returning home in a taxi. The men were told to get out of the taxi and were forced onto the ground. The police received gunfire from a nearby hill, at which point the men got up and ran. Montesinos and Arcia were hit in the back during the gunfire but were able to reach a nearby hospital. Before they could be attended, police officers detained them and told their friends they were taking them to a second hospital. Later that evening, the family located the pair, dead, at a third hospital. A CICPC investigation was pending at year’s end.

Security forces also killed some prisoners; however, the majority of the inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (*see* Section 1.c.).

There were no developments in the case of army Lieutenant Alessandro Siccato, who sprayed and ignited paint thinner in the holding cell of three allegedly disobedient soldiers in January 2001. Two men were seriously burned; a third, Jesus Alberto Febres, died as a result of burns. A military court convicted Siccato; however, the Attorney General appealed, and in October 2001, the Supreme Court granted a civilian court jurisdiction (*see* Section 1.e.).

There were no new developments in the investigation into the June 2000 killings by the Caracas Metropolitan Police of Ronny Tovar, Francisco Mister, and Luis Hernandez.

There were mob lynchings of known criminals who preyed on residents of poor neighborhoods.

b. Disappearance.—The Constitution prohibits forced disappearance, and there were no reports of politically motivated disappearances during the year. The Constitution also states that an individual must refuse to obey an order to commit such a crime and provides for the prosecution of the intellectual author of the crime.

Government agents were suspected in the forced disappearances of at least four alleged criminal suspects and other individuals in Vargas state during a crackdown on looters following flooding in 1999. In September 2001, the Attorney General announced that formal charges had been filed against two DISIP agents in a Vargas court; however, there was no progress in the case.

In September an appeals court dismissed the case against DISIP Commissioner Jose Yanez Casimiro and retired Commissioner General Justiniano Martinez Carreno in the 1999 disappearances of Oscar Blanco Romero and Marco Monasterio. On February 22, the Vargas state penal court dismissed the charges against the two men because the witnesses could not identify them. COFAVIC, working on behalf of the victims' families, appealed the decision. The families of the victims, as well as the lawyers for COFAVIC, claimed the hearing was unfair because they were not given ample opportunity to speak before the court.

There were reports that Colombian guerrillas kidnaped persons for ransom. According to the National Federation of Cattlemen, 60 persons had been kidnaped as of June, compared with 94 in all of 2001. As of June, Colombian guerrillas still held 20 of the 94 landowners kidnaped in 2001.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to medical rehabilitation. Detainees have the right to a judicial determination of the legality of their detention within 3 days. However, security forces continued to torture and abuse detainees physically and psychologically. This abuse most commonly consisted of beatings during arrest or interrogation, but there also were incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims came from the poorest and least influential parts of society.

PROVEA documented 324 cases of torture, beatings, and other abuse from October 2001 through September (affecting 1,064 victims), compared with 340 cases from October 2000 through September 2001 (affecting 667 victims).

Torture, like extrajudicial killings, continued because the Government did not ensure independent investigation of complaints. The Institute of Forensic Medicine is part of the CICPC, which contributed to a climate of impunity, since its doctors were unlikely to be impartial in their examinations of cases that involved torture by CICPC members. Very few cases of torture resulted in convictions.

Police officers and National Guard troops at times harassed or humiliated victims. For example, in April the National Guard harassed missionaries from the Church of Jesus Christ of Latter-day Saints (Mormons), by conducting strip searches and intimidating them (*see* Section 2.c.).

General prison conditions continued to be harsh due to underfunding, poorly trained and corrupt prison staff, and violence by guards and inmates. Despite the implementation of the COPP, the prison population was 117 percent of capacity. Twenty-two of the country's 30 prisons were overpopulated, some severely, according to the Ministry of the Interior and Justice. Overcrowding in some prisons was so severe as to constitute inhuman and degrading treatment. According to the Ministry of the Interior and Justice, 48 percent of all prisoners were in pretrial detention.

Underfunding compounded the degradation of even model prisons. Attempts to relieve overcrowding by transferring prisoners worsened conditions in other facilities. The prisons often lacked such basic equipment as telephones in the prison director's office. Prisoners often complained of food and water shortages.

The Government failed to provide adequate prison security. According to the Ministry of Interior and Justice, there were 244 deaths and 1,249 injuries from violence

in jails from October 2001 through September. Security forces committed a small number of the killings in prisons, and many prisoners died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. However, most inmate deaths resulted from prisoner-on-prisoner violence, riots, fires, and from generally unsafe conditions in prison facilities.

Prisoners reported that the prison officials allowed the prisoners to fight among themselves. For example, in the prison in Barcelona, prisoners claimed that prison officials permitted the more violent prisoners to kill each other to get rid of difficult prisoners, and did nothing to help those who were seriously injured, leaving them to die. Prisoners reported cases in which other prisoners disappeared after being injured in fights.

Prison employees reported that grenades and guns were present in some prisons. In May prison guards discovered grenades at San Antonio prison in Margarita. Guards reported similar access to weapons since February in Barcelona prison, in Anzoategui state. The National Director of Prisons launched an investigation into the National Guard because several of the weapons in the prisoners' possession had been decommissioned from the National Guard.

Inmates often had to pay guards and other inmates to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profited from exploiting and abusing others, especially as convicted murderers and rapists often were housed with unsentenced or first-time petty offenders. Gang-related violence and extortion was fueled by the substantial trafficking in arms and drugs that occurred in prisons.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings (*see* Section 1.e.).

Women inmates were held in separate prisons, where conditions generally were better than those in the men's facilities. Security forces and law enforcement authorities often imprisoned minors together with adults, even though separate facilities existed for juveniles. Because reform institutions were filled to capacity, hundreds of children accused of infractions were confined in juvenile detention centers where they were crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

Despite resistance from the Catholic Church and NGOs, the Government sporadically used the National Guard, normally charged with exterior prison security, to maintain internal control of prisons.

The Government permitted prison visits by independent human rights observers; however, guards were often unaware of international law, and sometimes refused entry to consular representatives unless they submitted to strip searches.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and the 1999 COPP provide for freedom from arbitrary arrest and detention; however, the security forces continued to arrest and detain citizens arbitrarily.

There continued to be arbitrary detentions by the Caracas Metropolitan Police, the DISIP, municipal police forces, the National Guard, and the CICPC, especially during anticrime sweeps in impoverished sections of major cities. PROVEA documented 4,549 persons detained in sweeps from October 2001 through September, compared with 4,243 persons detained in sweeps from October 2000 through September 2001.

Human rights activists in border areas alleged that security forces continued to detain individuals and groups arbitrarily, citing the need to examine identity documents. Hundreds of Colombian nationals were detained and deported without due process (*see* Section 2.d.).

The COPP stated that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person was caught in the act of committing a crime, or a judge determines that there was a danger that the accused may flee or impede the investigation. The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In no case may the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor may it exceed 2 years. However, confusion over the COPP still exists, and arbitrary arrests continued to be common. Police on the streets were not well trained, and often abused their power for either personal or political reasons. In 2001 the National Assembly broadened the definition of the "in flagranti" circumstances in which a person may be apprehended and lengthened slightly the time provided to police to present charges prior to the release of an arrested individual (*see* Section 1.e.). Human rights groups claimed this change led to an increase in detentions.

Under the COPP, persons accused of petty crimes who had not been convicted but already had been in custody 2 years or the minimum sentence possible for that crime (whichever is less) are to be released if they passed a psychiatric examination. Under the provisions and benefits provided by the law, approximately 9,000 prisoners were released in 2000, the last year for which statistics were available. There were approximately 19,368 prisoners as of August, 48.27 percent of whom had not been convicted of a crime.

In April, during the short-lived government of Pedro Carmona, military officers held President Chavez for 36 hours against his will. Additionally, security forces conducted raids without warrants and took some Chavez supporters into custody illegally, including National Assembly deputy Tarek Willian Saab, a member of the Chavez-aligned MVR. According to COFAVIC, a large crowd had gathered around Saab's home, threatening him and his family. When the local police arrived to protect Saab, DISIP forces also arrived and took Saab into custody. He was held incommunicado for several hours.

Forced exile is illegal; however, during the short-lived Carmona government in April, military officials attempted to force the exile of President Chavez.

e. Denial of Fair Public Trial.—The civilian judiciary is legally independent; however, it was highly inefficient and sometimes corrupt, and judges were subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Public Prosecutor, who provides opinions to the courts on prosecution of criminal cases and brings to the attention of the proper authorities cases of public employee misconduct and violations of the constitutional rights of prisoners or accused persons; the Ministry of Interior and Justice, which manages the national police force (CICPC), files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistrature (DEM), which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

The 1999 COPP provides for the right to a fair trial and considers the accused innocent until proven guilty in a court. However, under the previous secretive inquisitorial code, the presumption of innocence generally was not respected nor accepted. The system was corrupt, paper-intensive, costly, and time-consuming. Judges were underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. The adversarial system also establishes the right to plead guilty and make reparation agreements; however, lengthy delays in trials remained common.

The Government continued to implement the COPP, which altered the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, judges, and lawyers. The police no longer detained persons arbitrarily for up to 8 days (*see* Section 1.d.) and worked under the supervision of a prosecutor; judges ceased to be investigators and arbiters of law; and prosecutors and defense attorneys assumed both roles respectively.

A November 2001 amendment to the 1999 COPP strengthens out-of-court settlements and increases victims' rights to compensation; provides physical protection to crime victims during trials; bolsters the work of juries for some crimes and eliminates them for others; eliminates some sentence reduction benefits for jailed criminals; and expands powers of detention (*see* Section 1.d.).

The law provides for public defenders for those unable to afford an attorney; however, there were not enough public defenders. According to statistics from the DEM, there were 531 public defense attorneys for the entire country, of which 164 were dedicated exclusively to juvenile cases and 367 for all other cases. Public defenders handled more than 63,000 cases throughout the country, with an average caseload of 150 cases per public defender. In some states, the average annual caseload was as high as 520 per public defender.

Prison officials often illegally demanded payment from prisoners for transportation to judicial proceedings. Those who were unable to pay often were forced to forgo their hearings (*see* Section 1.c.).

During the year, the DEM suspended and removed judges based on charges of incompetence or corruption. Judges were suspended with pay; however, some observers challenged that the judges' right to appeal was restricted. The Government held competitive examinations to fill judicial vacancies, beginning in Miranda and Vargas states in January 2001. Judges with pending cases against them were not eligible to take the examinations, and judges who have been reprimanded had points deducted from their scores. However, the slow pace at which suspended or fired judges

were replaced meant that, as of November, fewer than 25 percent of the judges in the country were permanent.

The military courts continued to implement a reform similar to the COPP in the military justice system. The Constitution established that trials for military personnel charged with human rights abuses would be held in civilian rather than military courts. However, the provision does not apply to cases that predate the 1999 Constitution, and there was no implementing law for the provision. There was no progress in the January 2001 case of army Lieutenant Alessandro Siccat (*see* Section 1.a.). In October 2001, the Supreme Court ruled that civilian courts should hear the case. The Court declared the court-martial and sentence null and void, and sent the case to a state civilian court in Maracay. Siccat remained detained at year's end and awaiting trial in Aragua state at year's end. His court appearance has been suspended twice.

Human rights NGOs continued to express concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. However, human rights groups noted the Ministry of Defense's decision in 2001 to publish its judge candidate lists and called this a step toward greater transparency in this process.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces continued to infringe on citizens' privacy rights by conducting searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. Reports of illegal wiretapping and invasion of privacy by the security forces increased during the year. On various occasions, progovernment legislators made public surreptitiously taped conversations, such as one between labor leader Carlos Ortega and former President Carlos Andres Perez. The conversation was political in nature, not criminal. The Minister of Justice and Interior denied authorizing the taping.

In June a group of MVR deputies made public a recording of two telephone conversations between journalist Patricia Poleo and one of her contacts. Poleo filed a complaint with the Attorney General's office and with the Organization of American States (OAS). The journalist also complained she was the victim of government surveillance. In August Chacao municipality police disrupted DISIP surveillance of Chacao Mayor Leopoldo Lopez, a Chavez critic.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, press freedom deteriorated significantly during the year. Violence and threats of violence against the media increased markedly during the year, as did government intimidation. As a result, self-censorship by the media was thought to be widespread.

Individuals and the media freely and publicly criticized the Government; however, as noted by the Inter-American Human Rights Commission's (IAHRC) Special Reporter on Press Freedom, reprisals and threats of violence against journalists and media organizations restricted freedom of expression in practice. In addition, some individuals reported that the Government recorded and aired publicly private telephone conversations, restricting freedom of speech (*see* Section 1.f.).

Print and electronic media were independent. The Government had a national television station, a national radio network, and a newswire service whose directors were named by the President. The President had a weekly call-in show on television and radio. Since April these shows aired only on state media; commercial television and radio were not obligated simultaneously to broadcast the program, as was true before April. Independent media observers criticized the state media for extreme progovernment politicization. State media employees complained about purges of employees considered to be anti-Chavez, and some employees of state-owned Radio Nacional and Venezolana de Television claimed they have lost their jobs because of their political views. Community media, including radio and TV stations, also existed. These are distinct from mainstream commercial media in legal status, frequency licensing requirements, and advertising regulations. Most community media were new and were progovernment in editorial policy.

Media analysts, journalists, and other observers alleged that the criminal defamation and libel laws were used to intimidate or harass the media. Because of the lengthy process and considerable legal costs, some observers regarded these lawsuits, or threats of lawsuits, as examples of attempts to intimidate journalists and

discourage investigative journalism. The editor of "La Razon" newspaper remained overseas because of one such long-running lawsuit.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. This "true information" article raised concerns in the domestic and international media that it could be used by the Government to censor or intimidate the press. The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. Media figures criticized the Supreme Court's 2001 ruling that established criteria for determining and exercising the right to timely, true, and impartial information. President Chavez has demanded a right to reply on several occasions. However, some individuals named by the President in his weekly national radio show complained that they have not been granted the right to reply.

The Constitution declared that it is "contrary to the freedom of information" for a medium to "emit negative or critical concepts about ideas, thoughts, judgments, rulings, etc.," without indicating what is being criticized. The ruling set criteria to establish whether a media report is "true" or not, according to the Constitution. Violations include expressing opinions that contain statements that are "out of context, disconnected, or unnecessary for the topic, or offensive, insidious, or degrading expressions unconnected to the topic, or unnecessary for the forming of public opinion." The ruling affirms that information can be censored prior to publication if it violates Article 57 of the Constitution, which prohibits anonymous authorship, war propaganda, and messages that promote discrimination or religious intolerance. The Court also ruled that it is "restrictive of true and impartial information" if a majority of a medium's writers of editorial articles express the same ideological tendency, unless that medium openly declares itself to be a party to those views. The domestic media and international organizations such as the Inter-American Press Association (IAPA) and the Committee for the Protection of Journalists criticized the Court's ruling.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech.

In October 2001, the President accused television station Globovision of engaging in a "campaign of lies" against the Government. President Chavez warned Globovision's director Alberto Federico Ravell and its owner Nelson Mezerhane that if they did not reconsider their broadcasts, he would "be forced to activate mechanisms in defense of the national interest, truth, and public order" and that their actions might have "legal consequences." President Chavez noted that the "airwaves belong to the State," announced that he had ordered the National Telecommunications Commission (Conatel) to investigate the station, and warned that the station's broadcast licenses might be reviewed. In October 2001, Conatel announced that it was opening administrative proceedings against Globovision to determine if the station had violated broadcast content regulations. The situation continued at year's end.

International organizations and domestic journalists charged the Government with encouraging a climate of hostility toward the media that jeopardizes freedom of the press. In September the IAPA expressed its concern for "the serious deterioration of press freedom in Venezuela due to a climate of intimidation and physical attacks against journalists and media outlets, as well as a legal and judicial system, that threatens the free practice of journalism." In its annual report released to the General Assembly in October, IAPA stated that "freedom of expression is exposed to a series of risks that are not limited to simple threats or to abuses that compromise its existence, but include serious measures and revenge for exercising that freedom."

The law allows the Government to call national broadcasts (cadenas) requiring all broadcast media to pre-empt scheduled programming and transmit the broadcasts in their entirety. Domestic and international observers criticized the Government for excessive abuse of this right. For example, April 8 and 9, the Government aired more than 30 cadenas to block commercial broadcast media reporting on massive opposition demonstrations.

The Government influenced the press through licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising.

Some commercial radio stations complained that the allocation of broadcasting frequencies to community radios was not in accordance with existing broadcast regulations. On April 12 and 13, several community media charged that state security agents of the short-lived Carmona government entered their installations and harassed their employees.

The Government denied equal access to official events. In August the Government and government supporters restricted private media's access to cover government-sponsored events. Between August and December, guards at the presidential palace occasionally turned away reporters from private stations, and in December restricted their access altogether. State controlled television and radio stations continued to have full access.

The Telecommunications Law of 2000 establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believed that this article might allow the suspension of media broadcasts for vague and arbitrary reasons. The President referred to this law many times and threatened to revoke commercial broadcast licenses. Many media professionals complained that investigations of television and radio stations by state broadcast regulation agency Conatel were politically motivated.

On April 11, the Government shut the television signals of Venevision, Televen, RCTV, Globovision, and CMT for several hours. In addition, armed troops from the DIM also surrounded the CMT building for several hours trapping station employees inside.

There were numerous allegations of government pressure against the media. President Chavez repeatedly singled out media owners and editors by name and charged that the media provoked political unrest. The statements resulted in a precarious situation for journalists, who were frequently attacked and harassed.

President Chavez also publicly accused media owners and institutions of tax evasion. Media figures charged that the Government used ongoing tax cases and tax investigations to pressure media owners and cited as an example, on May 3, the announcements of Conatel investigations of commercial televisions.

On January 17, the National Assembly passed a resolution calling on media owners to discuss and adopt a Code of Ethics. The media rejected the resolution as inappropriate state interference.

On March 13, state news agency Venpres characterized several media figures as narco-journalists. The Committee to Protect Journalists criticized the article as an obvious government effort to defame.

There were credible reports of state security agents spying on, harassing, intimidating, and physically attacking journalists. Some security agents masqueraded as journalists and photographed or filmed antigovernment speeches and gatherings. There were numerous cases of wiretaps of journalists, media owners, and media's telephones, apparently without legal authorization (*see* Section 1.f.).

In January 600 journalists severely criticized the systematic verbal aggression, principally from the President, and charged that the President's rhetoric stigmatized them and led to physical and verbal aggressions by supporters of the regime. The press workers and photographers syndicate also criticized the derogatory, unfair, and inconsiderate rhetoric. The IACHR ordered protective measures for numerous individual journalists and for many television stations and newspapers. The country remained on International Press Institute's "watch list" of countries where there was a growing tendency toward suppression or restriction of press freedom.

Violence and threats of violence against the media increased markedly during the year. On April 11, newspaper photographer Jorge Tortoza was killed and several others were injured during demonstrations. In August progovernment protesters shot a television cameraman while he was covering the event. During the year, according to media sources and published reports, at least 7 reporters were shot and more than 80 were physically attacked, including with weapons such as clubs, knives, rocks, and battery acid while covering street demonstrations and political rallies. Five were victims of crime under suspicious circumstances; nearly 100 reported having received threats, in some instances telephoned death threats. At least 28 individuals and media organizations requested and received protective measures from the IAHR. There were many incidents of vandalism, theft, and destruction of media vehicles, cameras, and other equipment, including several incidents caught on videotape. At least 13 media vehicles were vandalized and 4 television cameras and 2 microwave transmitters were destroyed.

Violent or threatening demonstrations occurred at several media offices. In January government supporters, some armed with baseball bats and sticks, demonstrated in front of the newspaper El Nacional and chanted "Tell the truth or we will burn you down." There were recurrent demonstrations in front of the studios of RCTV during the year. On December 9, in an action severely criticized by OAS Secretary General Cesar Gaviria, government supporters, in some instances accompanied by pro-government deputies from the National Assembly, simultaneously

surrounded and attacked 33 media installations throughout the country, causing significant damage.

There were numerous bomb threats and several explosive devices attacks against the media. On January 31, an assailant threw a firebomb at the offices of *Asi es la Noticia* newspaper after its director published a video alleging ties between the Government and Colombian guerrillas. In July an assailant threw a fragmentation grenade at the studios of Globovision television. On September 12, four incendiary devices were thrown at the studios of Promar TV. In November an incendiary device exploded in Globovision television's parking lot, destroying two vehicles and part of the building.

On April 13, progovernment crowds assembled at private television stations and demanded access to the studios. The demonstrators forced the stations to air messages by demonstration leaders and to rebroadcast state television programming. On April 14, most Caracas newspapers did not publish because progovernment crowds forced the abandonment of the newspaper buildings.

Venevision journalists outside Caracas were threatened with violence and in several instances were forced into hiding. Several journalists, fearing for their safety, fled the country. Pro-Chavez demonstrators took over various radio stations to convene supporters "to defend the revolution."

Although there was no official censorship of cultural activities, violent protests also were aimed at political satirists and political comedy shows perceived by demonstrators as being critical of President Chavez.

The Government did not restrict access to the Internet.

While academic freedom traditionally has been respected, the autonomy of the country's universities was threatened during the year. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government may appoint a majority of members. The Government successfully replaced the leadership of other universities, mostly in the interior of the country, with political allies.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the freedoms of peaceful assembly and association, and the Government generally respected these rights in practice. Public meetings, including those of all political parties, generally were held unimpeded. The Government required permits for public marches but did not deny them for political reasons. The Metropolitan Police reported that, although both opposition and progovernment marches took place during the year, only opposition-march organizers requested permits.

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of President Chavez repeatedly demonstrated in the streets of the capital and other cities during the year. Several demonstrations resulted in injuries or loss of life. Both the authorities and the demonstrators used firearms (including military weapons), tear gas, and billy clubs against each other.

There were allegations that the Metropolitan Police used excessive force during various demonstrations. Several witnesses reported seeing Metropolitan Police officers firing on progovernment demonstrators during the April 11 protests and in the subsequent days of mass looting throughout Caracas. The President criticized the Metropolitan Police for firing on a group of progovernment demonstrators as they protested a Supreme Court decision in August.

Professional and academic associations generally operated without interference; however, in 2000, the Supreme Court ruled that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; Religious organizations are not part of civil society and are subject to the same restrictions; and the Government has an obligation to ensure that NGOs are "democratic in nature" and therefore the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. The Government has not moved to implement the Court's decision.

Following months of tension, the Confederation of Venezuelan Workers and Fedecamaras, the country's largest business federation, called a national strike and opposition groups organized a protest march for April 11. As the crowd of approximately 400,000 to 600,000 marchers approached the presidential palace, National Guard officers prevented the marchers from advancing. Unidentified shooters fired on the crowd, and at least four men were filmed firing from Puente Llaguno, a pedestrian overpass. Metropolitan Police officers escorting the marchers also fired their weapons. Both sides claimed the other fired first. Although no official count exists, COFAVIC reported that at least 19 persons died, at least 17 of whom were anti-Chavez demonstrators. Four men identified shooting from Puente Llaguno were arrested and were awaiting trial at year's end. During the march, President Chavez ordered the implementation of "Plan Avila," a civil defense plan intended to mobilize

troops to protect the presidential palace from attack. Military officers refused to implement this plan, claiming it would have violated the human rights of the civilian demonstrators.

After April opposition groups requested permission to demonstrate at the presidential palace on several occasions, but were not granted permission for security reasons. Government supporters regularly congregated there to show their support for the president, although they did not hold organized marches, and therefore did not require permits. In September President Chavez issued a decree establishing eight security zones within Caracas. The decrees gave the central government rather than municipal officials the authority to permit demonstrations there. The zones included areas around military installations, state television and radio stations, and PDVSA headquarters. Opposition groups criticized these security zones as a restriction on the right of assembly. As of November, the Government had not used the decrees to hinder freedom of assembly.

The Metropolitan Police and National Guard used tear gas to restrain crowds in the April 11 demonstrations, and there was evidence that National Guard troops shot at demonstrators. The Metropolitan Police, in turn, fired on progovernment supporters. In August Metropolitan Police used tear gas and a water cannon against pro-Chavez protesters at various demonstrations against the Supreme Court. The President accused the Metropolitan Police of committing human rights violations during these protests. During one demonstration, National Guard officers received gunfire from the crowd, including fire from semiautomatic weapons, at which point they returned fire. Several demonstrators were injured.

In November members of opposition political parties and civil society marched to CNE headquarters to deliver more than 2 million signatures to request a consultative referendum. Marchers battled to deliver the signatures amidst violent demonstrations by government supporters. Although the Government sent emissaries to try to discourage the violence, the crowds fired guns and threw rocks and bottles at the marchers and Metropolitan Police. The National Guard eventually dispersed the crowd.

c. Freedom of Religion.—The Constitution provides for freedom of religion, on the condition that the practice of a religion not violate public morality, decency, or the public order, and the Government generally respected this right in practice.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. During the year, this money was not disbursed due to budget shortages. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government.

Each local religious group must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice to hold legal status as a religious organization and to own property. The requirements for registration were largely administrative. However, some groups complained that the process of registration was slow and inefficient. A special visa is required for foreign missionaries to enter the country, which is obtained through consulates abroad. Missionaries were not refused entry generally, but many complained that due to general bureaucratic inefficiency the Government often took months or years to process a request.

Archbishop Balthazar Porras, president of the Venezuelan Episcopal Conference, complained to the Vatican in September about what he characterized as increased government attacks on the Catholic Church. For example, on January 25, Chavez said that the Catholic Church was one of Venezuela's problems and that it was a tumor that must be eradicated. Members of the Church, including Monsignor Porras, reported being threatened, and one priest, Father Juan Manuel Fernandez was shot. There has been no investigation into these crimes.

Some foreign missionaries complained that members of the National Guard harassed them. In May the Church of Jesus Christ of Latter-day Saints (Mormons) reported that the National Guard harassed two of its missionaries in Tachira state. According to church officials, National Guard troops stopped missionaries at a checkpoint on two occasions and told them to strip. On one occasion, the officer asked one of the missionaries to surrender his foreign passport. When the missionary resisted, the officer made him strip completely naked and demanded that he jump up and down, while other guards laughed at him. The missionary's clothes and body were not searched.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right of citizens and legal residents

to travel within the country and to go abroad and return, and the Government generally respected these rights in practice. However, the Government may suspend the freedom to travel. The Government also restricted foreign travel for persons being investigated for criminal activities. In addition, the Government requires citizens and foreigners resident in the country who are departing the country with minors to present to immigration officials proof of authorization from the minors' parents.

There is still a large population of internally displaced persons following the 1999 floods during which more than 250,000 persons lost their homes. Although many of those affected were relocated to other communities in the interior of the country, thousands returned and live in shantytowns in and around Caracas.

The Constitution recognizes and provides for the right to asylum and refugee status. Both the Constitution and the Organic Refugee Law that came into effect in October 2001 are in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law is designed to expand the legal rights of refugees, contains a broad definition of the conditions that would entitle individuals to refugee status, commits the Government to an active role in providing humanitarian assistance to refugees, and creates an institutional body to make refugee and asylum status determinations. In August President Chavez inaugurated a new office of the U.N. High Commissioner for Refugees (UNHCR) in San Cristobal, Tachira state.

Implementing regulations for the Refugee Law have not been drafted, and training for border officials was poor. As a result, there was no formal mechanism for those seeking asylum to legalize their refugee status. During the year, the UNHCR worked with the Attorney General's office to investigate cases on an ad hoc basis to speed the Commission's ability to decide a case once it is formed. UNHCR reported that files were often lost or misplaced, since the Attorney General's Office had no fixed department to centralize the processing of these cases. UNHCR also noted that the investigation of refugee claims was flawed. For example, for family groups, the review process involved only the head of the family, even when the dependents' cases may be more compelling from a humanitarian standpoint.

Persons who applied formally for refugee status were given no provisional documentation that legalized their presence in the country. Therefore, they had no legal protection, and could not legally work, attend public school, or receive public health services. National Guard troops rarely investigated the cases of undocumented aliens found at security checkpoints along the border before deporting them.

As of October, there were approximately 200 persons in the country who had been granted refugee status from prior years, and approximately 1,000 additional refugee claims pending.

In theory, the Government provides first asylum. However, the Government denied the existence of all but a small number of Colombians who crossed the border and claimed to be fleeing paramilitary incursions. It called the Colombians, whose presence it did acknowledge, "displaced persons in transit"—a term that does not exist in public international law. According to UNHCR, the number of small groups entering the country, including individuals and small family groups, increased. In these cases, the persons often chose to blend into the local population rather than apply for formal refugee status.

There were no reports of forced return of persons to a country where they feared persecution. However, the National Guard in the border region in Zulia, Tachira, and Apure states, reported that they deported on average 42 Colombian nationals per day. As of September, they deported 9,533 persons. Although the law requires the authorities to take 30 days to investigate each undocumented persons case, this was done only rarely.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to seek the support of voters. The President has extensive powers and the legislature appoints the members of the Supreme Court, the CNE, and the Citizen Power consisting of the Ombudsman, Public Prosecutor, and Controller General.

In 1999 the National Constituent Assembly (ANC) drafted and submitted to a popular referendum a new Constitution, which went into effect in December 1999. The ANC also decreed new general elections. In July 2000, in voting that observers from the OAS and various countries judged to be generally free and fair, voters

elected President Chavez, with 59 percent of the vote. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly. His supporters also won half the governorships.

In December 2000, the National Assembly appointed members of the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGOs as unconstitutional. These groups argued that the procedures set forth in the 1999 Constitution regarding civil society participation in the selection process were not followed. The outgoing Ombudsman and others challenged the selection procedure but lost the appeal.

Displeased with President Hugo Chavez, several opposition groups and political parties sought to remove him from power throughout the year. In April military officers illegally detained Chavez, and opposition business leader Pedro Carmona, without any constitutional authority, declared himself President. Their principal legal avenues were to try to convict the President of a crime, to hold a non-binding referendum to remove him from the presidency, and to pass a constitutional amendment to shorten his term of office.

In April the country experienced a temporary alteration of constitutional order. Political opposition leaders, business associations, and labor leaders organized various public demonstrations and work stoppages opposing President Hugo Chavez beginning in late December 2001. On April 11, an estimated 400,000 to 600,000 people participated in a march in downtown Caracas to demand President Chavez's resignation. When the march approached central Caracas, the Government cut the transmission of private television stations that refused to broadcast a series of presidential speeches. As marchers changed course and approached the Presidential Palace, gunfire broke out, resulting in as many as 18 deaths and more than 100 injuries, with dead and injured on both sides. Military officers announced they would not follow presidential orders to attack the marchers and took President Chavez into custody. Opposition business leader Pedro Carmona proclaimed himself as interim president when General Lucas Rincon Romero, Inspector General of the Armed Forces, announced Chavez had resigned the presidency. Carmona dissolved the National Assembly, the Supreme Court, and suspended the Constitution. DISIP officers arrested officials of the Chavez government. Between April 12 and 14, Chavez supporters turned out and looting broke out in some areas of Caracas, resulting in more deaths and injuries. On April 14, troops loyal to Chavez returned him to power. An investigation into the April 11 shootings, plagued by irregularities, has failed to result in any convictions.

Women and minorities participated fully in government and politics. The National Assembly's Family, Women, and Youth Committee promotes political opportunities for women. In the July 2000 elections, women won 20 seats in the 165-seat Assembly. There were 4 women in the 18-member Cabinet.

Indigenous people traditionally have not been integrated fully into the political system due to low voter turnout, geographic isolation, and limited economic and educational opportunities. The 1999 Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 2000 election. There were no indigenous members in the Cabinet. One of the Vice Presidents of the National Assembly was an indigenous person.

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

A wide variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were occasionally responsive to their views. However, NGOs objected to a November 2000 Supreme Court ruling that NGOs that receive funding from foreign governments or whose leaders are not Venezuelan were not part of civil society. The ruling concluded that such NGOs may not represent citizens in court or bring their own legal actions, and that NGOs are subject to government regulation of their internal leadership selection should they be found to be "undemocratic in nature" (see Section 2.b.). This ruling has not impeded the work of NGOs.

Several human rights NGOs received an increased number of threats and intimidation by government representatives and government supporters.

A Caracas NGO that works on behalf of victims of violence, COFAVIC, received e-mail and telephone threats beginning in January from Bolivarian Circles and persons who identified themselves as Chavez supporters. The Attorney General's office and Human Rights Ombudsman's office did not pursue requests by COFAVIC for investigations of this harassment. In May COFAVIC filed a complaint with the IACHR. The IACHR recommended that the Government provide police protection to COFAVIC's offices and director. It also called for the Government to investigate

COFAVIC's claims and speak out against the intimidation of human rights organizations. The Government did not respond to this request. The Metropolitan Police provided bodyguards for the COFAVIC director and protection in and around COFAVIC's office.

The Ombudsman is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Public Prosecutor and Controller General, makes up the Citizen Power branch of government. In 2000 the National Assembly named attorney German Mundarain as the new Ombudsman (*see* Section 3). Since his appointment, Mundarain has used his position to urge broad consensus on human rights issues. However, human rights NGOs claimed that the Ombudsman's office had acted on only a small number of cases presented to it. Many critics claimed that the Ombudsman was not truly impartial.

Human rights groups remained concerned about the Chavez administration's lack of a human rights agenda and lack of support for the national human rights agenda formulated by the previous government. There have been no meetings between President Chavez and NGOs to discuss human rights issues since 1999. However, NGOs have developed relationships with specific government bodies such as the Ministry of Education (to develop educational materials on human rights), the Foreign Ministry (to discuss the resolution of existing human rights cases against the Government in international courts), and the National Assembly (to discuss proposed legislation affecting human rights). The Government also continued to fail to support the National Human Rights Commission created in 1996 to coordinate government human rights programs and to serve as a forum for dialog with NGOs.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum. Human rights NGOs complained that the Ministry still rejected the validity of their reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the violence of April 11–14, several NGOs, political parties, and observers called for the creation of a truth commission. National Assembly deputies introduced legislation to create one; however, it did not pass.

Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government did not protect women adequately against societal and domestic violence and did not ensure the disabled access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year.

There were no new developments in the 2000 case that state police in Valencia, Carabobo state, detained four transgendered persons and held them incommunicado for 2 days without food or drinking water. The family of one of the detainees filed a formal complaint with the Public Ministry.

Women.—Violence against women continued to be a problem, and women faced substantial institutional and societal prejudice with respect to rape and domestic violence during the year. Domestic violence against women was very common and was aggravated by the country's economic difficulties. There were 8,411 cases of domestic violence reported to the authorities during the year. Many domestic violence cases were not reported to the police. The police generally were unwilling to intervene to prevent domestic violence, and the courts rarely prosecuted those accused of such abuse, according to local monitors. In addition, poor women generally were unaware of legal remedies and have little access to them. The law requires police to report domestic violence and obligates hospital personnel to advise the authorities when it admits patients who are victims of domestic abuse cases.

Rape is extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the crime. A provision in the Penal Code also provides that an adult man guilty of raping an adult woman with whom he is acquainted can avoid punishment if, before sentencing, he marries the victim. Few police officers were trained to assist rape victims. During the year, the police received 3,492 reports of rape. However, women's organizations asserted that these figures were low and did not accurately portray the problem of rape and sexual assault. They claimed that many victims did not report the incident or press charges due to societal pressure and their own feelings of guilt.

There were reports that women were trafficked to Spain for purposes of prostitution (*see* Section 6.f.).

Sexual harassment in the workplace was a common problem but was not a criminal offense.

Women gradually surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still were underrepresented in leadership positions and, on average, earned 30 percent less than men. Women accounted for approximately half the student body of most universities and advanced in many professions, including medicine and law. As of November, 70 women were in training at the Army's military academy, 100 were in training at the Naval academy, 39 were at the Air Force academy, and 75 were in training at the National Guard academy. A 2000 government decision allowed women to attend military academies and serve in expanded roles as officers in the armed forces. Women and men were legally equal in marriage.

The Constitution provides for sexual equality in exercising the right to work. The 1990 Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for 1 year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the Confederation of Venezuelan Workers (CTV), the country's major labor federation, these regulations were enforced in the formal sector, although social security payments often were delayed.

In 2001 the National Institute for Women (formerly the National Women's Council)—an agency of the Presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor—designed two programs to assist women in need and enhanced the economic independence of women. The first program was the "Women's Bank" to provide small-scale financing to micro-enterprises run by women. In February the Government said that \$10 million (15 billion bolivars) had been placed into this fund. However, the fund did not publish its balances, and it was not controlled by the Ministry of Finance. There were allegations of corruption and mismanagement within the fund. The second initiative was the Women's Shelters Program—the construction of a series of centers to receive, care for, and rehabilitate women in distress.

There were a number of NGOs concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups were not implemented widely by the police or other concerned government agencies.

Children.—The Organic Procedural Law on Adolescents and Children establishes legal protection of children under the age of 18, regardless of nationality; however, observers expressed concern over the slow implementation of the law's provisions. Government expenditures on education, health, and social services decreased during the year due to a weakening economy and government budget deficits. Primary and secondary education was chronically underfunded. According to the Constitution, the State is to provide free education up to the university-preparatory level (15 or 16 years old) and the law provides for universal, compulsory, and free education; however, an estimated 57 percent of children left school before the 9th grade.

In addition, approximately 1 million children were not eligible to receive government assistance, including public education, because they were either illegal aliens, or their births were not documented properly, according to the annual report of the NGO Community Centers for Learning (CECODAP). A 1998 government regulation requires hospitals to register the births of all children, but a government program of sending teams into poor neighborhoods to register minors has been discontinued. Many children remain undocumented.

According to a 2001 report by CECODAP, approximately 25 percent of children under the age of 15 had a nutritional deficit. Substandard conditions contributed to the increase in preventable diseases that were leading causes of infant mortality.

Increasing poverty raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. Reports of child abuse were rare due to a fear of entanglement with the authorities and societal ingrained attitudes regarding family privacy. The judicial system, although slow, ensured that in most situations children were removed from abusive households once a case had been reported. However, public facilities for such children are inadequate and had poorly trained staff.

There were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids (see Section 6.f.).

According to CECODAP, approximately 1.6 million children worked in the country, mostly in the informal sector where they worked as street vendors or as beggars. An estimated 206,000 children were involved in prostitution, drug trafficking, and petty crime.

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised mi-

nors. Children's rights advocates claimed that curfews permitted the police to act arbitrarily and detain persons who had committed no crime. Because reform institutions were filled to capacity, hundreds of children accused of infractions, such as curfew violations, were confined in juvenile detention centers (see Section 1.c.).

Children's rights advocates continued to criticize the Government's lack of success in reuniting children and parents who were separated in the flooding in Vargas state in 1999. At year's end, some children remained missing. The Ombudsman's office continued to investigate whether some of these children may have been trafficked (see Section 6.f.).

Persons with Disabilities.—Persons with disabilities had minimal access to public transportation, and ramps were practically nonexistent, even in government buildings. According to local advocates, persons with disabilities were discriminated against in many sectors, including education, health care, and employment.

A comprehensive 1993 law to protect the rights of persons with disabilities requires that all newly constructed or renovated public parks and buildings provide access. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government had not made a significant effort to implement the law, inform the public of it, or try to change societal prejudice against persons with disabilities.

There were no reports of discrimination against persons with mental disabilities.

Indigenous Persons.—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffered from inattention to and violation of their rights. There were approximately 316,000 indigenous people in 27 ethnic groups. Many indigenous people were isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plagued their communities.

The Constitution creates three seats in the National Assembly for indigenous people and also provides for "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom took account of the interests of indigenous people when making decisions affecting their lands, cultures, and traditions, or the allocation of natural resources. As farmers and miners intruded on their habitats, indigenous communities faced deforestation and water pollution. Few indigenous persons held title to their land, but many did not want to because most indigenous groups rejected the concept of individual property. Instead, they called on the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

In July 2001, four members of the Pume indigenous people in Apure state were killed during an apparent effort to take control of the land they occupied, according to a Pume woman who witnessed the incident. The family of four—Cruz (age 50), Lorenzo (age 28), Ana Maria (age 25), and Rosa Maria Flores (age 9)—were attacked by nonindigenous persons armed with machetes and firearms. Another Pume member, Carmen Flores, witnessed the killings and escaped unnoticed. In August 2001, two persons were arrested in connection with the killings. In November 2001, a court found them innocent and they were released. In July the Supreme Court reopened the case and ordered that the two men be detained.

The Yanomami, among the most isolated of the indigenous people, have been subjected to persistent incursions into their territory by illegal gold miners, who have introduced both diseases and social ills.

Members of the Warao indigenous group of Delta Amacuro state continued to migrate during the year from their homelands in the swampy Orinoco delta to Caracas, where they live in the streets, selling handicrafts and begging. The Warao claim that flooding and petroleum exploration have eroded their traditional means of survival: Fishing and horticulture. The Caracas city government and the Metropolitan Police maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998, the last year for which estimates are available, they returned at least 15 groups averaging 100 Warao each. Many of the Warao nevertheless return to Caracas, citing lack of jobs and money in the delta and their ability to earn approximately \$112 (130,000 bolivars) per week in handouts in Caracas.

Section 6. Worker Rights

a. The Right of Association.—Both the Constitution and the 1990 Labor Code recognize and encourage the right of workers to organize; however, concerns over labor rights continued. According to the Constitution, all workers, without prejudice or need of previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as the right to join—

or refrain from joining—these organizations. The 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees, except members of the armed forces. The Constitution provides that labor organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Labor organizers and leaders may not be removed from their positions during the period of time or under the conditions in which they exercise their leadership functions. However, Articles 23 and 95 of the Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the internal elections of labor confederations. This article is in violation of the Government's commitments to ILO Conventions 87 and 98 and has been the subject of a long-running dispute between the Government and the ILO.

The ILO repeatedly expressed concerns that the 1990 Labor Code violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 employers). The ILO noted that the long and detailed list of duties assigned to workers' and employers' organizations and the requirement that foreign workers must be resident in the country for more than 10 years in order to hold trade union offices also violates freedom of association.

Despite ILO objections, the Government continued to insist on the CNE's oversight authority for labor leadership elections. However, in practice CNE authorities took a broad interpretation of the requirement, allowing the individual union and federation elections to proceed uninterrupted under the authority of the CTV, and generally limiting its activities to an advisory role.

In June the Government, labor, and business representatives participated in the annual ILO Conference. Although the Government pondered accrediting someone other than Ortega to represent labor, the Supreme Court ruled that Ortega was the proper representative. The Committee on the Application of Conventions and Recommendations criticized the country for its violations for the second year in a row. The Government responded that labor law reform was under debate in the National Assembly.

The Labor Code mandates registration of unions with the Ministry of Labor, but it limits the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and only for reasons listed in the law.

The law also prohibits employers from interfering in the formation of unions or in their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, if a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to the worker's seniority.

Approximately 10 to 12 percent of the 10-million-member national labor force were unionized. One major union confederation (the CTV), three small union confederations, and a number of independent unions operated freely. The CTV represented most of the unionized workers and was especially strong in the public sector; its membership was approximately 900,000 workers. The CTV's top leadership included members of several political parties, but the majority affiliated with one of the traditional parties, Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally influenced each other. The Bolivarian Workers Force (FBT) tried to organize unions within the CTV and participated in the CTV internal elections held in October 2001.

There were no restrictions on affiliation with international labor organizations, and many union organizations were active internationally; however, a November 2000 Supreme Court ruling regarding the legal rights of NGOs that receive funding from foreign sources has the potential to restrict the international affiliations of union organizers (*see* Section 2.b.).

b. The Right to Organize and Bargain Collectively.—According to the Constitution, all public and private sector workers have the right to voluntary collective bar-

gaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the Government is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the resolution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly expressed concerns that this provision restricts freedom of association and in March 2000 requested that the Government amend it so that “in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members.” The Code contains a provision stating that wages may be raised by administrative decree, provided that the legislature approves the decree.

During the year, the conflict between the Government and the CTV intensified, with the labor confederation participating in both a national work stoppage in December 2001, several massive antigovernment demonstrations, and the general strike in April that led to the brief overthrow of President Chavez. The national work stoppage that contributed to Chavez’s brief downfall began with a protest at the state oil concern PDVSA after Chavez fired the company’s board of directors. This led to sympathy strikes at several PDVSA outlets and culminated with the CTV convoking a national work stoppage. After the second day of the stoppage, the CTV called a general strike on April 10, but it did so as a consensus of its executive committee without consulting the rank-and-file. CTV President Ortega went into hiding for a brief period after President Chavez returned to power. Meanwhile, he and the CTV’s Executive Committee—four progovernment labor leaders have refused to take their seats—has become increasingly committed to Chavez’s removal from office.

In October 2001, the CTV elected Carlos Ortega Secretary General. Both sides lodged numerous protests of fraud, but the Chavez government, which had endorsed FBT candidate Artistobulo Isturiz, claimed massive fraud had decided the election and refused to recognize Ortega as the winner. Ortega continued to occupy the office without the official election certification by the CNE. The lack of recognition prevented government-labor dialog on issues such as the minimum wage and collective contract negotiations.

The Constitution and the 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by labor law. However, public servants may strike only if the strike does not cause “irreparable damage to the population or to institutions.” Replacement workers are not permitted during legal strikes. The 1990 Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike “puts in immediate danger the lives or security of all or part of the population.” During the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, teachers, and transportation workers.

In August Caracas subway workers struck for 1 day to protest their collective contract, which expired 3 years ago. This strike was resolved when the Ministry of Labor offered the workers a bonus of nearly \$6,000 per worker. The Ministry did not initiate talks to negotiate a new contract. Shortly thereafter, workers of the state-owned aluminum company also struck to protest their contract, expecting a similar settlement. In all, more than 600 collective contracts required renegotiation.

Labor law and practice are the same in the sole export processing zone, located in Punto Fijo, Falcon state, as in the rest of the country.

c. Prohibition of Forced or Bonded Labor.—The 1990 Labor Code states that no one may “obligate others to work against their will,” and such practices generally were not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally were not known to occur; however, there were reports of trafficking in children for employment purposes (*see* Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The 1990 Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector, in which an estimated 1.1 million children worked. According to UNICEF, approximately 2.5 percent of children were in the labor market, and they worked in agriculture, as artisans, in offices, and in the services sector.

The 1990 Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission.

It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelting factories; in occupations that risk life or health, or could damage intellectual or moral development; or in public spectacles. The Constitution prohibits adolescents from working in jobs that will affect their development.

Those under 16 years of age may by law work no more than 6 hours per day or 30 hours per week. Minors under the age of 18 may work only between 6 a.m. and 7 p.m. The estimated 1.2 million children who worked in the informal sector, mostly as street vendors, generally worked more hours than the total permitted under the law. A 1996 survey of working children found that half of the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reported that 12 percent of the country's children between the ages of 10 and 17 were working, had worked at some time, or were seeking work. Of that number, approximately 70 percent work in the informal sector of the economy.

e. Acceptable Conditions of Work.—The Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the right to basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. In July the Government raised the minimum wage for public and private employees by 10 percent. Following the increase, the monthly minimum wage at present exchange rates is \$163 (190,080 bolivars) in the private sector for urban workers, \$150 (174,240 bolivars) for employees of small and medium-sized companies, and \$150 (174,072 bolivars) for rural workers. The increase applied only to those already earning the minimum wage—approximately 15 percent of the labor force. Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits that were added to these minimum figures generally increased wages by about one-third. However, even with these benefits, the minimum wage was not sufficient to provide a decent standard of living for a worker and family. Unions noted that a worker's income was often less than the cost of basic monthly food for a family of five, estimated by the Government's Central Office of Statistics and Information. The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, totaled \$828 (960,000 bolivars) for August. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately one-half of the population works in the informal sector where labor laws and protections generally were not enforced.

The Constitution stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees to work additional overtime, and workers have the right to weekly time away from work and annual paid vacations. Some unions, such as the petroleum workers' union, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforced these standards in the formal sector.

The Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which was not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The Code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom closed unsafe job sites. Under the law, workers may remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons.—The Constitution prohibits trafficking in persons; however, there is no implementing law specifically for prosecution of all forms of traf-

ficking in persons, and trafficking was a problem. Trafficking may be prosecuted under laws against forced disappearance and kidnaping (punishable by 2 to 4 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a penalty of 1 to 10 months in jail for trafficking in children). There were reports that the country was a source, destination and transit country for trafficked men, women, and children during the year. However, no figures were available from either government or NGO sources, and it was difficult to gauge the extent of the problem. The authorities showed little awareness of the problem of trafficking in persons. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates were obtained created favorable conditions for trafficking. However, there were no reports or evidence of involvement in trafficking by government officials, and the Government took steps to reduce corruption among immigration officials by replacing immigration inspectors at the Simon Bolivar International Airport in Maiquetia.

There were reports that women were trafficked to Spain for purposes of prostitution. There also were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids. In October a smuggling ring was discovered in which children from Ecuador were smuggled through the country to their waiting parents in the U.S. Chinese nationals trafficked to the U.S. via countries bordering Venezuela transitted the country. The Ombudsman's office continues to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked. It also was believed widely that young women were lured from rural areas to urban centers by misleading newspaper advertisements promising domestic or other employment and educational opportunities; they then became victims of sexual exploitation. Organized criminal groups, possibly including Colombian drug traffickers, Ecuadorian citizens, and Chinese mafia groups, reportedly were behind some of these trafficking activities.

The Government did not prosecute any individuals for trafficking in persons during the year. Government efforts to prevent and prosecute trafficking, which were rare, are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking have recourse to the Government's national system of women's shelters (*see* Section 5). NGOs such as CECODAP and the Coalition Against Trafficking in Women also were involved in activities to combat trafficking. There were no efforts or surveys planned or underway to document the extent and nature of trafficking in the country. However, in January the Government did provide some assistance to apparent victims of trafficking from various West African countries who landed on the coast of Sucre state. The group claimed that it had been abandoned at sea by a Turkish cargo ship that, for a fee, had brought them from Africa to find work in an undetermined country.