

## 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, 5 years before independence. In the 1999 elections, which observers described as free but not fair, the ALP retained power by winning 12 of 17 parliamentary seats. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defense Force. The security forces are responsible for law enforcement, and civilian authorities maintained effective control of them. Some members of the security forces committed human rights abuses.

The country had a mixed economy with a strong private sector. The population was approximately 76,000. Tourism and financial services were the most important source of foreign exchange earnings. The Government was the largest employer, employing approximately 11,500 workers. The country offset a slight decline in tourism since 2000 by borrowing, and its large and growing external debt remained a serious problem. Real economic growth was projected to be negligible for the year, compared to 2.7 percent in 2002. The Labor Commission estimated that the unemployment rate was 11–13 percent at year's end.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were allegations 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 two radio stations; 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.

#### 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, there were occasional allegations that the police committed unwarranted killings, usually in connection with apprehension of suspects.

On November 22, police shot and killed escaped convict Frederick Martin James, who had been serving a 23-year sentence for attempted murder. According to police, James was armed with a gun and opened fire when they tried to apprehend him. At year's end, the Director of Public Prosecution (DPP) ordered an inquest into the circumstances of James' death.

In the case of the May 2002 police killing of Andy "Natty Rough" Francis, the coroner's inquest concluded that the death was a lawful killing.

In the September 2002 case in which Glen Harper died at his home in the Gambles area while police were attempting to subdue him after he beat his father unconscious, the coroner's inquest concluded that Harper's death was accidental.

*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, police shot bystander Khary Roberts while chasing a suspected burglar in broad daylight. Roberts hired an attorney to take civil action against the po-

lice force; at year's end, the police concluded an internal investigation into the shooting but had not made the results public.

Prison conditions were poor. Conditions at the sole, 18th century-built prison worsened considerably after a fire destroyed most of the facility in 1999. The prison remained overcrowded, with 149 prisoners (142 men and 7 women). Prison conditions were inadequate, particularly recreation and rehabilitation facilities. The Rehabilitation Center for prisoners found guilty of committing minor crimes held an additional 13 male prisoners at year's end.

In July 2002, 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. While the Government did not make the report public, in September 2002, the Outlet newspaper reported that it called for the Prison Superintendent to step down, citing claims by female prison officers that he had harassed them sexually; charges the Superintendent denied. The Labor Ministry's Permanent Secretary declined to take action on the task force report, based on an analysis by the Labor Commissioner that the report lacked sufficient evidence to support its recommendation that the Prison Superintendent be discharged. Nonetheless, the Prison Superintendent was placed on pre-retirement leave, and his contract was not renewed in May.

Female prisoners were held in a separate section and were not subject to the same problems encountered in the men's prison. There was no separate facility for juveniles, who were housed with adult inmates.

Pretrial detainees were not held in the same area as convicted prisoners.

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.

The police force consists of approximately 600 persons (including the fire brigade), and it has disciplinary machinery in place to handle public complaints. Headed by a Police Commissioner, the force has 25 senior officers and 23 inspectors. Independent departments handle immigration and driver licenses, which formerly were part of the police force's responsibilities. The Police Welfare Association has advocated for additional training for the police, particularly in the area of management training for senior officers.

Criminal defendants have 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 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 is always employed in the case of death sentences. There are 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 may 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 opposition party alleged that the Government restricted access to electronic media, effectively denying them equal coverage.

The Government owned one of the four 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.

In 2001, the country's first independent broadcast media, the Observer radio station, began operation. It was accessible to all political and religious groups 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 published the Crusader newspaper, also applied for and received a radio license in 2001; its radio station began operation in June.

The Prime Minister filed a defamation suit against the Observer radio station and members of the UPP for widely publicizing the as yet unsubstantiated rape charges brought by Monique Kim Barua against him. The Prime Minister filed this case after Barua's attorneys decided that they could not adequately establish their case and dropped the charges.

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. The case was heard in court in September 2002, but the judge had not issued a ruling by year's end.

According to the DPP, the police were conducting an internal investigation and an inquest had begun into the May 2002 case in which 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 said on a radio call-in program 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 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 convicted and fined one remaining protester among the residents of Bendals arrested in a protest demonstration in 2001 over threats to public health caused by the operation of nearby quarries; the case against the others was dismissed in 2002.

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 2003 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 for refugee status or asylum by persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

### *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 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; these elections must be held by March 2004. The Commonwealth observer group that monitored the last 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 ALP retained power by winning 12 of 17 parliamentary seats and capturing 53.2 percent of the popular vote. In June, the ALP majority dropped to nine seats, with the defection of three parliamentarians. 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 2002, the Government appointed an Electoral Commission to oversee the registration of voters and upcoming national election, 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 preparation for elections, the Electoral Commission registered 42,616 voters (in contrast to the 52,348 in the last election) in a new voter registration process begun in July. This process was highly scrutinized by both parties and outside observers, given that the voters' register was outdated and widely condemned as inflated by observers of the last election. On November 13, the final voters' list was released.

There were no impediments to participation by women in government or 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 appointed to the 17-seat Senate. There were three female candidates running in the upcoming national elections. 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 represents 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 term length. The current Ombudsman's term is 10 years or until age 70, whichever occurs 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 hotline and worked with a nongovernmental organization (NGO) to provide safe havens for abused women and children. There were a number of active NGOs 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—the most senior positions—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. However, schools faced many shortages, and parents typically provided desks and chairs for their children. Although shared textbooks were provided, parents often purchased books; parents also must provide uniforms. Children had access to health care and other public services.

Child abuse remained a problem. The age of consent is 16 years. In 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. No cases have been prosecuted; several were dismissed because the complainant failed to appear.

*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 anti-discrimination provisions. In 2002, there was one complaint that a person was not hired due to a disability; the Labor Commission resolved this case and determined the complaint was not valid because of the nature of the job. The Commission did not receive any complaints during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions. Approximately 75 percent of workers belong 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 anti-union discrimination. The Labor Commission may require employers and employees to 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 anti-union discrimination are not required to rehire employees fired for union activities. On February 5, the Government ratified International Labor Organization (ILO) Convention 100 (Discrimination in Employment).

Unions are 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 ILO'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.

Most sectors of the public work force experienced payment delays of at least 6 weeks during the summer and fall, which caused widespread public frustration and precipitated crippling strikes and "sick-outs" by air traffic controllers, port authorities, prison officials, and teachers. By year's end, the Government had made arrangements to address these late payments and no subsequent strikes occurred.

There are no export processing zones, but there are 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 and may not work later than 10 p.m. 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. In September 2002, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Labor Code provides that the Minister of Labor may issue orders, which have the force of law, to establish a minimum wage. In 2002, a tripartite committee of representatives from employers, employees, and government met and recommended changes to the minimum wage. In December 2002, 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. Although not specifically provided for by law, workers may leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. Although there were no reports that persons were trafficked to, from, or within the country, an Antiguan task force evaluating the Antiguan passport office determined that passports could be fraudulently obtained, raising the possibility that fraudulent passports could be used to facilitate migrant smuggling or trafficking in persons.

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## ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. After protests in December 2001 led to the resignation of President Fernando de la Rúa and a succession of interim presidents elected by the Legislative Assembly, presidential elections were held in April. No candidate gained sufficient votes to win the election in the first round; however, former President Carlos Menem withdrew his candidacy before the second round, and Nestor Kirchner was declared the President and assumed office on May 25. The Constitution provides for an independent judiciary, but it was often 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 Secretary of Security under 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. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed human rights abuses.

The country is resource rich and has a market-based mixed agricultural, industrial, and service economy and a population of approximately 36.2 million. Despite a severe economic and financial crisis in recent years, the economy grew during the

year, spurred by the liberalization of the exchange rate and high commodity prices for key exports such as soybeans and wheat. Real economic growth was approximately 8 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were instances of killings 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. Overcrowding in jails and prisons was a problem. Police sometimes arbitrarily arrested and detained citizens. The judiciary was slow and showed clear signs of politicization. The judiciary continued to work through the legacy of human rights abuses committed during the “dirty war” of the 1976–83 military regime. Anti-Semitism remained a problem, despite steps to combat it. Domestic violence against women was a problem. Discrimination against racial and ethnic minorities persisted. Child labor was a problem. There were reports of trafficking in women and children.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, some persons asserted that killings of protesters during demonstrations were politically motivated (see Section 2.b.). Police and prison officers were responsible for 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. The Center for Legal and Social Studies calculated that in the Buenos Aires region there were 149 violent deaths, civilian and official, involving security forces in the first 6 months of the year; some of these were killings at the time of apprehension, while others involved killings by stray bullets. There were also a few prison killings with suspected official involvement.

On February 6, authorities discovered the remains of Patricia Villalba and Leyla Bshier Nazar in a field near La Darsena, Santiago del Estero Province. Villalba was reportedly killed with the participation of provincial authorities to prevent disclosure of information concerning the prior death and dismemberment of Bshier Nazar. By November, the presiding judge had arrested 27 people in connection with the crime and charged 7 with the killings. Among those accused of killing Villalba were Antonio Musa Azar, the former provincial chief of intelligence, and three policemen, Hector Albarracin, Jorge Gomez, and Francisco Mattar.

On August 5, prisoner Lucas Ricardo Carrizo was found hanged in his cell in the Ezeiza Penitentiary Complex 1, just days before becoming eligible for parole. Other prisoners reported that Carrizo was present when Carlos Sandez Tejada was killed in the same prison in July 2002. These deaths and those of Maximiliano Noguera in 2000 and Miguel Angel Arribas in 1999 were suspected to have been committed to cover up a ring of corruption in Caseros prison whereby prison officials released inmates to carry out robberies. The day after Carrizo's death, the Minister of Justice dismissed 69 members of the Penitentiary Service, including the director of the Ezeiza complex. By mid-August, Judge Alberto Banos had ordered the arrest of 22 former Caseros prison staff.

There were no developments in the case of the 2002 killing of Daniel Chocobar (see Section 1.c.). Authorities prepared to try a provincial police chief for the 2002 shooting deaths of demonstrators Dario Santillan and Maximiliano Kosteki; three other police were charged with a coverup (see Sections 1.c. and 2.b.). On November 14, three police officers were acquitted of the 2002 killing of Roque Sebastian Villagra. Nine Federal Police detained and charged for the 2002 beating and drowning of Ezequiel Demonty had still not been tried by year's end. Authorities detained seven police who awaited trial in the beating and death of Andrea Viera in May 2002.

Investigations continued into the deaths that occurred in Buenos Aires, Rosario, and Santa Fe in 2001 during lootings and demonstrations. Seven active or retired police remained in detention for five deaths being investigated by the federal judiciary. A Rosario judge found “insufficient evidence” to proceed to trial of police suspected of three killings. A police officer remained in jail awaiting trial for the killing of Claudio Lepratti, a fourth person killed in Rosario. There were no developments in the investigation of a related killing in Cordoba.

The investigation into the 2001 killings of Gaston Galvan and Miguel Burgos continued. There was no new information on the investigations of the 2001 shooting death of 16-year-old Martin Gonzalez in Tigre, Buenos Aires Province (with suspected involvement of a policeman) or the deaths of Carlos Santillan and Oscar

Barrios in 2001 (apparently related to confrontations between police and roadblock protesters).

In March, the chief prosecutor for the provincial Supreme Court opened an investigation into possible prosecutor negligence in San Isidro concerning investigative irregularities in some of the deaths of over 60 minors killed in supposed confrontations with police in Buenos Aires Province in 1999 and 2000. In August, the provincial police also initiated an administrative investigation of two police officers.

The trial of policeman Felipe Gil, under detention for the deaths of Jose Zambrano and Pablo Rodriguez in Mendoza Province in 2000 was expected to begin in March 2004.

On November 12, a court convicted 12 Federal Police officers for the 2000 killing of Manuel Fernandez in Jujuy.

The investigation into the 1994 terrorist bombing of the Buenos Aires Jewish Community Center (AMIA) in which 85 persons were killed advanced significantly. A court indicted 12 Iranian officials and 1 Lebanese national, and the former Iranian Ambassador to Argentina at the time of the blast was briefly detained in the United Kingdom. The trial of 20 suspects (15 of whom are former police officers) accused of providing material support for the attack continued at year's end. President Kirchner pledged his support for the investigation and efforts to achieve justice in this case (see Section 2.c.).

In August, the President revoked a 2001 presidential decree proscribing extraditions for dirty war crimes and finalized the country's ratification of the U.N. Convention on the Non-Applicability of Statutes of Limitations to War Crimes and Crimes Against Humanity. The decree also encouraged the Congress to annul the 1986 and 1987 "Full Stop" and "Due Obedience" de facto amnesty laws for crimes committed during the 1976–83 dirty war. In August, the Congress passed such an annulment with retroactive effect, clearing the way for courts to reopen major criminal cases against military officials that had been shelved following the amnesty laws. Two of these cases, related to the Naval Mechanics School and the First Army Corps, led to judicial arrest orders for a number of former security force members.

Cases already underway because of prior court challenges to the constitutionality of the amnesty laws continued. These included the investigation by Judge Claudio Bonadio into the kidnapping and killing of exiled Montonero guerrillas upon their return in 1979–80 as well as Judge Rodolfo Canicoba Corral's investigation into cooperation among military and security officials of six countries as part of "Operation Condor."

The Supreme Court continued to weigh the constitutionality of the amnesty laws; however, in September, it referred a challenge to amnesty laws to a lower appeals court, further delaying a final decision.

Judicial authorities in Spain, Italy, France, Sweden, and Germany sought to prosecute those believed responsible for disappearances and killings during the military regime. France renewed its effort to extradite former naval officer Alfredo Astiz, who was convicted in absentia for the deaths of two French nuns. Italy and Sweden also sought his extradition for the disappearance of three Italians and a Swedish national. Germany continued to pursue its extradition request for dirty war suspects, including former head of the First Army Corps, Carlos Guillermo Suarez Mason. In July, more than 40 suspects were detained and held for several weeks on charges of genocide and other abuses pursuant to a Spanish judge's request.

Retired Navy officer Ricardo Cavallo, arrested in Mexico in 2000, was extradited to Spain to face charges of genocide, torture, and terrorism. The Mexican courts dismissed the torture charges as having expired. This was described as a landmark case of an extradition from one country to another to face charges on gross human rights abuses committed in a third country.

*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, 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 an estimated 250 to 300 cases of kidnapping and illegal adoption by members of the former military regime of children born to detained dissidents. The Grandmothers also assisted families in pre-



senting cases of kidnapped children nationwide and have identified over 70 children of persons who disappeared.

A number of those suspected of crimes linked to appropriation of the children of disappeared persons remained under detention, including Francisco Gomez and his wife, and Navy doctor Jorge Luis Magnacco.

In September, the Supreme Court ruled not to force a suspected daughter of a couple who disappeared to provide a blood sample for DNA analysis to prove her true identity.

Human rights activists continued to pursue “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 such practices, and the Criminal Code provides penalties for torture similar to those for homicide; however, some torture and brutality by police and prison guards continued to occur. Human rights organizations described police brutality, the occasional use of torture on suspects, and corruption within the prison and police forces. The Government investigated some past reports of police or prison brutality; however, few cases were tried and even fewer resulted in convictions. Threats to witnesses and advocates made prosecution of abuses and reform more difficult. Provincial judicial authorities effectively deactivated a registry of abuses. In 2002, the Government created a Secretariat for Human Rights for Buenos Aires Province, which established a Program for the Prevention of Torture.

The wife of jailed robbery suspect Gumersindo Vergara, who was alleged to have committed suicide in September in northwest Chubut Province, reported that her husband’s body showed signs of torture. The family’s lawyer also presented evidence of police intimidation.

There were no further developments related to the five police jailed for the torture of Javier Villanueva in 2001.

Prison conditions were often poor. Some facilities were 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, led to overcrowded prisons and police stations. In September, a press report on Buenos Aires Province stated that there were 6,200 detainees in police station facilities designed for 3,000, and the 36 provincial prison units designed for 15,000 inmates held 22,000. The report also noted that the province was building 4 additional prisons to house 2,800 inmates. The overcrowding contributed both to security problems—such as jailbreaks and riots—and to mistreatment of prisoners.

Impunity for corruption, torture, and brutality by prison guards and officials remained a serious problem. Prisoners who filed torture and mistreatment complaints were targeted for torture or killed. While some provincial prison officials were dismissed, there were no known developments with respect to the prosecution of suspects in these attacks.

Under national regulations, pretrial prisoners may not be held together with convicted prisoners; however, reliable reports indicated 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 arbitrary arrest and detention, and the Government generally observed these prohibitions; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. In the past, human rights groups reported difficulties in documenting such incidents because victims were reluctant to file complaints for fear of police retaliation or inaction. There were reports that in some provinces paramilitary groups worked in conjunction with police elements.

In addition to the PFA and Border Police, each province has its own police force. These are generally under a police hierarchy which in turn responds to a Security Minister or other executive branch council. In practice, the effectiveness of and respect for human rights by different forces varied considerably. Corruption was systemic in some forces, and impunity for police abuses was common.

Some of the most common practices included contract abuses, 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. Police were also often involved in drug trafficking and kidnapping. In October, the head of the PFA and at least 14 other senior PFA captains were dismissed on charges of corruption. In Buenos Aires Province, dozens of upper level provincial police were subject to investigation for “illicit enrichment,”

and the former head of the provincial police resigned after it was discovered he had inexplicably deposited several hundred thousand dollars in an offshore account. In April, authorities discovered a Salta Province counternarcotics police chief with 50 kilos of cocaine and arrested him for drug trafficking. 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 or their criminal allies (see Section 1.a.).

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.

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 received 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 were 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.

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 of judges and administers the federal court system. In October, there were 90 vacant positions and 34 slates awaiting executive decisions. Five new judges were appointed, and one was removed.

In June, Supreme Court Chief Justice Julio Nazareno resigned soon after an impeachment process began in the Chamber of Deputies. With the encouragement of the Justice Minister, the Impeachment Committee in the Chamber brought charges against a second Supreme Court Justice, Eduardo Moline O'Connor, and, in December, the Senate voted to impeach him. In October, a third Justice, Guillermo Lopez, resigned after the Impeachment Committee began proceedings against him.

In June, the Government adopted a new public disclosure and consultation process for Supreme Court nominees and later implemented a similar procedure for other judicial appointments. In October, Raul Zaffaroni became the first Supreme Court nominee approved under the new procedures.

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.).

In July, the clerk of a court in the Federal Capital reportedly stated in an administrative investigation that she had been subject to coercion and pressure from judges, prosecutors, and high ranking police, in relation to a major 1996 armored car robbery.

The prosecutor in the case of the June 2002 killing of Ian Duran, a teenage witness in a murder case, failed to carry out basic notification procedures required for a trial, and the proceedings were found null and void. The prosecutor claimed Duran's killing was unrelated to the prior murder. Another prosecutor was appointed to renew the investigation. There was no further information on the numerous threats reportedly received in relation to the case.

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, replacing the old system of written submissions. However, substantial elements of the old system re-

main, some of which have the potential to bias a judge before oral testimony is heard. Lengthy delays in trials were a problem. Although the 1994 Constitution provides for trial by jury, 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. Suspects other than minors are presumed innocent, and defendants have the right to appeal, as do prosecutors.

Some children's advocates considered laws regarding minors outdated and in need of reform in view of the country's commitments under the U.N. Convention on the Rights of the Child (see Section 5.).

On May 20, President Duhalde pardoned Enrique Gorriaran Merlo, the final remaining prisoner from the 1989 La Tablada barracks assault. He also pardoned two other La Tablada prisoners who had already been given provisional release, as well as the leader and six members of the "carapintada" military uprising.

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. In practice, local police stopped and searched individuals on the pretext of checking documents—a practice that increased as crime rates rose.

The law provides the PFA with search, seizure, and entry powers without a court order in cases of danger.

The law provides for legislative oversight of government intelligence activities and prohibits unauthorized interception of private communications; however, in practice the legislative oversight has yet to be effectively applied.

*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 owned the Telam wire service, a radio network, and a television station. A few provincial governments also owned broadcast media.

In September, the Supreme Court struck down dirty war era limitations on broadcast media ownership, thereby allowing nonprofit organizations to own radio stations.

During the year, the journalists' association, Periodistas, reported continued attacks on journalists, including threats and scuffles with police during coverage of demonstrations. In addition, some sources cited an increased tendency by national and provincial government agencies to withhold advertising to manipulate media coverage. Concerns were also raised about the degree to which major print media, subject to severe financial constraints, exercised self-censorship in their criticism of the Government in exchange for favorable government treatment of debts and allocation of official advertising.

There were no developments in the investigation of the 2001 threats against journalists Edgardo Soto, Carlos Abrehu, or Martin Oeschger.

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 freedom of assembly, and the Government generally respected this right in practice. During the year, numerous peaceful protests and demonstrations occurred throughout the country (see Section 6.a.). Security forces occasionally used rubber bullets but more often used tear gas and water cannons to disperse unruly demonstrators.

Protest marches, roadblocks, and other demonstrations occurred frequently during the year and were usually peaceful. Often the protests and roadblocks were related to loss of employment and distribution of public benefit programs. In only a few cases did security forces and demonstrators engage in violent confrontations. In November, in the Province of Jujuy, Marcelo Cuellar was killed outside a police station during a protest over the suspicious death of prisoner Cristian Ibanez. Six police were arrested in connection with the deaths. Demonstrators were detained in several instances, leading to charges that the Government was "criminalizing" protests. It was reported that hooligans often inserted themselves into otherwise peaceful demonstrations in order to provoke confrontations with police.

Three Buenos Aires provincial police, including a chief, remained under detention for killing two demonstrators, Maximiliano Kosteki and Dario Santillan, following a confrontation between security forces and roadblocking "piqueteros" in June 2002. In addition, a prosecutor requested a trial for eight other police accused of breaking into United Left/Communist Party headquarters and shooting and kicking demonstrators seeking refuge.

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 provided 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 obtain tax exempt status must register with the Secretariat and report periodically in order to maintain their status.

Acts of discrimination and violence against religious minorities, particularly the Jewish and Muslim communities, continued. 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 dialogue 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 anti-Semitic and pro-Nazi graffiti and posters in cities throughout the country.

In late 2002, the Tucuman provincial Supreme Court ruled that a non-Christian governor could be sworn in under a modified, nonreligious oath of office.

Cemetery desecrations continued to occur. On September 20, a Jewish cemetery in the Province of Santa Fe was desecrated.

There were no developments in the desecration of approximately 150 tombs in an Islamic Cemetery in La Matanza in July 2002 nor in the case of an anti-Semitic note left with an anti-tank grenade outside a Jewish Club in La Plata in November 2002.

There were no developments in the 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 letter bomb that injured musician Alberto Merenson.

The Government participated actively in the International Holocaust Education Task Force.

The Supreme Court’s investigation into the 1992 bombing of the Israeli Embassy in Buenos Aires remained at 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 advanced significantly (see Section 1.a.).

In March, the judge heading the ongoing investigation of the AMIA bombing issued an arrest order for four Iranian officials suspected of planning the terrorist attack. They included Moshen Rabbani, former cultural attache, diplomatic courier Barat Balesh Abadi, Iranian Intelligence Minister Ali Fallahian, and diplomat Ali Akbar Parvaresh. In May, the judge requested the arrest of Lebanese national Imad Mugniyeh, whom the Government already sought as a suspect in the 1982 bombing of the Israeli Embassy in Buenos Aires. In August, the judge requested the arrest of an additional eight Iranian officials, including the Ambassador at the time of the 1994 bombing, Hadi Soleimanpour, who was then detained for possible extradition in the United Kingdom. Soleimanpour was later released for insufficient evidence. Presidents Duhalde and Kirchner encouraged the investigation into the bombings, provided an intelligence report to support the investigation, gave permission to open sealed intelligence service files, and allowed agents from the State Intelligence Secretariat to testify in court.

For a more detailed discussion, see the 2003 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.

The law provides for granting of asylum or refugee status to persons who meet the definitions in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The cooperation program between the Argentine Refugee Committee and the UNHCR was extended

through the end of the year and resulted in a reduction in the number of pending requests for refugee status from roughly 2,500 to 800.

In December, the Congress passed a migration law that is expected to reduce discriminatory treatment against migrants and significantly assist migrants in obtaining legal residence 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. In April, presidential elections were held with no candidate receiving sufficient votes to win outright. Before a runoff could be held, former President Carlos Menem withdrew his candidacy, and, according to constitutional procedures, Nestor Kirchner was declared the winner and assumed the Presidency on May 25.

The Constitution calls for political parties to implement measures to increase women's representation in elective office. Decrees provide that one third of the members of both houses of Congress must be women, a goal which was effectively achieved through balanced election slates. In the Senate, 30 of 71 Senators were women. There were 87 women among the 255 representatives in the Chamber of Deputies. The Minister of Social Development was the only woman in the Cabinet. There were no female Supreme Court justices, although a woman was nominated for a vacancy in December, and women were prominent in other levels of the judiciary.

There were no known indigenous, ethnic, or racial minorities in the national legislature, the Cabinet, or the Supreme Court.

*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, Coordinator Against Police and Institutional Repression, 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.).

There were no developments in the 2001 shooting into the home of Estela de Carlotto, a leader of the Grandmothers of the Plaza de Mayo.

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 and Ministry of Justice, Security and Human Rights cooperated with international human rights entities, issuing an open invitation in 2002 to specialized U.N. human rights committees to visit the country and providing helpful follow up information and assistance on key cases. However, the Government was reported to have successfully sought Supreme Court reprimand of a judge in late 2002 for having provided a critical academic opinion in a case on arbitrary detention raised at the Inter-American Commission on Human Rights (IACHR).

On August 25, representatives of the IACHR again visited the country. The chief IACHR representative praised the annulment of the amnesty laws and the general cooperation of government authorities. He also noted citizens' recognition of their rights to bring cases before the IACHR. He expressed concerns about human rights in the province of Santiago del Estero, where people were afraid to criticize the Government, and paramilitary groups worked with police elements.

*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 investigated violations of the anti-discrimination law and carried out re-

search 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 its own budget, although such changes were still not fully implemented.

An interministerial committee held an extensive series of public consultations throughout the country, including in provinces with considerable migrant and indigenous populations. These discussions, assisted by the U.N. were aimed at developing and implementing a National Plan Against Discrimination, Xenophobia, and Other Forms of Intolerance, to follow up on the conclusions of the 2001 U.N. Conference in Durban with specific measures to provide effective protection to the most vulnerable sectors of society.

*Women.*—Domestic violence and sexual harassment against women were recognized as serious societal 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, continued its attempts to implement a standardized statistical system on domestic violence.

Any person suffering physical or psychological domestic violence by a family member may file a formal complaint with a judge or police station, and the Law on Protection Against Family Violence gives a judge the right to prevent the perpetrator of a violent act from entering the victim's home or workplace.

Reliable statistics as to the extent of rape were not available. Rape falls under the Law of Crimes Against Sexual Integrity. Marital and acquaintance rape involving force are offenses under the law; however, 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.

Public and private institutions offered prevention programs and provided support and treatment for abused women, but there was little transitory housing. 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; however, few other shelters existed.

Nongovernmental organizations (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. In addition, there was a great disparity between urban centers and rural areas with respect to women's awareness of and access to equal rights.

Sexual harassment occurred widely but was actionable in some areas.

Soliciting for prostitution is generally illegal but did occur. Some women have been trafficked to the country for prostitution (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.

The National Council of Women carried out programs to promote equal opportunity for women in the social, political, and economic arenas. The Special Representative for International 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. That office 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, budgetary restrictions for programs continued. National, provincial, and local agencies worked with international agencies, including UNICEF, to promote children's welfare.

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 was unavailable in some rural areas. The 2001 census showed that 98 percent of all children of primary school age attended school, 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.

Child abuse and prostitution continued to occur, but there was progress in some areas. In the city of Buenos Aires, the Council for the Rights of Girls, Boys, and Adolescents implemented a hot line and a network of neighborhood defenders offices to assist victims. The council received 71 reports of child commercial sexual exploitation in 2002. In conjunction with other agencies and organizations, such as UNICEF, the council also conducted active educational and awareness raising ef-

forts. Prosecutors and police pursued cases of Internet child pornography and sought additional legal tools to confront such cybercrime. On September 2, Buenos Aires provincial police reportedly dismantled a child prostitution ring, detaining 6 women and 1 man who exploited 15 girls ranging in age from 8 to 17.

The country's economic crisis disproportionately affected children, and poverty reduction under recovery was slow. Consequently, many of the emergency measures implemented to assist children and families with children in 2002 continued. Separately, the national and provincial governments sought to assure more effectively that minors detained by police were not held in regular police custody, to train security forces, and to track and investigate cases of violence against minors.

UNICEF and the National Council for Childhood, Adolescence, and the Family expressed concern 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 a trial. Punishment is based not on the severity of the crime 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. On September 23, the Government formed a committee, with governmental and nongovernmental participants, to follow up on the Implementation of the Inter-American Convention for the Elimination of All Forms of Discrimination Against Persons with Disabilities. The committee's first report noted a failure to comply with current legislation in the areas of employment opportunities, health, and social integration. It also called for a National Plan for Physical and Communication Accessibility and penalties for noncompliance with the law.

The law mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Laws mandating greater accessibility to buses and trains for persons with disabilities were not fully enforced.

NGOs and special interest groups claimed accessibility laws and an employment quota reserving 4 percent of national government jobs for people with disabilities often were not respected in practice. They noted that the law provided no deadlines or penalties and was not mandatory for the provinces. Disability advocates estimated an unemployment rate of over 90 percent for persons with disabilities.

*Indigenous People.*—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. Estimates of the number of indigenous persons varied widely, between 450,000 cited by demographers to 1.5 million according to the nongovernmental Indigenous Association of the Argentine Republic. In September, the National Statistics Institute stated its intention not to release the results of 2001 census data collected on indigenous identity.

Poverty rates were higher than average in areas with large indigenous populations. Indigenous persons had 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.

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.

Since 1994, the Government has returned 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, pollution, and road construction.

National, Racial, and 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. Accounts by those who have been subject to incidents of racial prejudice indicated that the problem was more common than reported. Members of minority groups reported avoiding buses and other crowded public facilities out of fear of being subjected to racial harassment.

On October 3, Ricardo Guzman Zevallos, a Peruvian lawyer, was reportedly detained and beaten by police who insulted him based on his national origin. Guzman Zevallos filed complaints with INADI and the courts.

In 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 because of a persons' race, color, or ethnic origin.

There were no new developments in the 2001 deaths of Marcelina Meneses, a Bolivian woman, and her baby who were insulted and then were pushed or fell from a suburban train.

In March, the courts convicted a man of threatening a woman of African descent, Elisa Souza de Melgarejo, and inciting racial hatred in 2000, and sentenced him to 10 months in jail, which was suspended in exchange for community service.

#### *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 exercised 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 supported the Justicialist Party. Most unions were affiliated with one of the two factions of the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers' Central, also was 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 conflicts with International Labor Organization (ILO) Convention 87.

The law prohibits anti-union 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, helped reduce the number of labor disputes in courts.

The Constitution provides for the right to strike, and workers exercised this right. Numerous small scale strikes generally protested sector-specific problems.

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, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor was a problem, and the Government continued its effort to develop and implement a national plan of action to eliminate it.

The labor laws 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 cat-



egories, and for limited hours. The penalty for employing underage workers ranges from \$350 to \$1,750 (1,000 to 5,000 pesos) for each child employed.

In 2002, the Ministry of Labor published, with support of the ILO's International Program for the Eradication of Child Labor (IPEC), a Diagnostic Synthesis on Child Labor that estimated 483,000 children were working in 2000. Using a broader definition, to include children working in their homes, the Diagnostic estimated there were 1.5 million child laborers.

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, began working with unions and other groups to train rural child labor monitors, and with provincial authorities in the tri-border area to undertake activities to address child sexual exploitation.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage increased for the first time since 1993 from \$70 to \$105 dollars (200 to 300 pesos); however, it still did not provide a decent standard of living for a worker and family. Most workers in the formal sector earned significantly more than the minimum wage.

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 were not enforced universally, particularly for workers in the informal sector who constituted an estimated 40 percent of the work force.

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. However, 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.*—The law prohibits trafficking in persons for the purpose of prostitution through fraud, intimidation or coercion, or in the case of minors; however, there were reports that persons were trafficked to, from, or within the country.

Penalties for trafficking ranged from 4 years to 15 years in prison. The law also prohibits alien smuggling, indentured servitude, and similar abuses. Other laws may also be used to prosecute crimes associated with trafficking, such as kidnapping, forced labor, use of false documents, and prostitution. Child prostitution was a problem; in Buenos Aires alone, there were 71 reports of child commercial sexual exploitation in 2002 (see Section 5).

There were reports of some small scale trafficking in persons in the country, which remained primarily a destination country but also occasionally a source and possibly a transit country. During the year, there was a report of a woman seeking work in Spain who was forced into prostitution. Some of the 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 continued, and the International Organization of Migration (IOM) approved the return of 57 Dominicans in 2002 and during the year. On October 13, the press reported that police in Cordoba Province found six Paraguayan women between the ages of 18 and 21 who had been brought to the region in August with promises of domestic employment but who were subsequently pressed into prostitution, including through the confiscation of their documents.

There was no government agency charged with coordinating policy to combat trafficking; however, the Foreign Ministry's Office of the Special Representative for International Women's Affairs did undertake some preventive consciousness raising initiatives, such as holding seminars on trafficking in conjunction with the IOM. While there were no government programs specifically to assist trafficking victims, the Office for Assistance to the Victims of Crime provided practical, legal, and psychological support to over a dozen Dominican victims of trafficking who were pursuing cases in the legal system. However, there were few mechanisms in place to detect trafficking victims and direct them to this assistance. 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 2002 elections that observers found to be generally free and fair. The judiciary was independent.

The national police force maintains internal security, and the small Royal Bahamas Defence Force (RBPF) 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 security forces 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 10.8 percent during the year.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. There were reports of unwarranted police killings and that police occasionally beat and abused detainees. 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.

### 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, there were reports of possibly unwarranted killings by the RBPF.

In February, the body of a young man was found on the Grand Bahama Freeway. The family of the victim made allegations of police mistreatment following the coroner's report that his wounds were not the result of a traffic accident as previously thought. Police claimed there was no evidence to support the family's assertion, and the matter remained before the Coroner's Court at year's end.

On August 7, a RBPF reserve police officer shot and killed a 16-year-old girl. Police asserted that the victim's friend brandished a weapon and fired, which resulted in return fire by the police. The supposed gun used by the victim's friend was not found. The Coroner's Court, which investigates cases involving sudden or unnatural deaths arising from accident or violence, was reviewing her death at year's end.

In December 2002, police officers shot and killed a young man who was fleeing a suspicious vehicle. Claiming the man was armed and reaching for a gun, police initiated the gunfire. Further investigation proved the victim was unarmed. At year's end, this matter remained before the Coroner'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 torture and other cruel and degrading treatment or punishment; however, the police occasionally beat or otherwise abused suspects. Many past allegations of abuse involved beatings to extract confessions; however, no formal complaints involving beatings to extract confessions were filed during the year. Two cases alleging police brutality from 2001 and 2002 were still waiting to be reviewed by the Coroner's Court. 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 (see Section 1.d.).

Conditions at Her Majesty's Prison at Fox Hill, the only prison, 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 800 of the approximate 1,500 total inmate population. The remaining prisoners were housed in medium- and minimum-security units that were at, or above, intended capacity. There was no appropriate or effective inmate classification system. Prisoners were initially assigned to the Maximum Security Unit before a housing determination was made as a means of "breaking them in" to prison life. Male prisoners were crowded into poorly ventilated cells that generally lacked regular running water, or toilet and laundry

facilities. Most prisoners lacked beds. Many of them slept on concrete floors and were locked in small cells 23 hours per day. Food service operations were inadequate and unsanitary. Opened in August 2002, the new Remand Center provided some overcrowding relief. However, prison officials estimated that there were approximately 700 prisoners awaiting trial, many of whom were confined in cells with convicted prisoners.

Prison officials estimated that approximately 8 percent of the prison population was infected with the HIV virus, although an Amnesty International (AI) report found that the infection rate was closer to 20 percent. Approximately one-third of prisoners suffered from tuberculosis.

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. In December, the Ministry of National Security initiated a farming program for the prisoners to become more self-sufficient. Modern training facilities were equipped with new computers, and the prison also offered some educational and literacy programs for prisoners; however, less than 25 percent of inmates participated in these programs.

Women were held separately from male prisoners. The prison's female population was approximately 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. However, women did not have access to the technical or vocational programs available to male prisoners.

The new maximum-security building has a separate section for juvenile offenders between the ages of 16 and 18. There was occasional mixing of juveniles with adult inmates depending upon the severity of their crimes. Offenders younger than 16, 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. On October 26, a fire set by a resident of the Center resulted in the deaths of three girls. The girls were locked in their rooms, and it was alleged that there were not adequate fire safety procedures in place to evacuate the children. At year's end, an investigation was underway.

At the Migration Detention Center on Carmichael Road, children under the age of 14 were held in the women's dormitory. Many children arriving with both parents were not allowed contact with the father. Despite the potential of being held for long stretches of time, these children did not have access to educational materials or a place to exercise and play.

Domestic and international human rights groups visited the prison and detention center during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arrested and detained persons arbitrarily. In general, the authorities conducted arrests openly and, when required, obtained judicially issued warrants.

The RBPF is commanded by a Commissioner who is supported by a Deputy Commissioner, four Assistant Commissioners, and a Director of Human Resources. The Force is divided into three districts: Headquarters, New Providence/Southern Bahamas, and Grand Bahama/Northern Bahamas. In 2002, the RBPF had 2,694 members.

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. The Government appointed a four-person committee to oversee the complaints and corruption branch; members 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 302 complaints against the police during the year, compared with 398 in 2002. Of these 302 cases, 173 remained under investigation at year's end, and 59 resulted in disciplinary action. 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.

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 did not provide legal representation except to destitute suspects charged with capital crimes. Recent estimates by AI showed that approximately 40 percent of inmates were not represented by legal counsel at their trial. 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, in the last fiscal year the Government spent approximately \$150,000 (B\$150,000) on attorneys in legal aid matters in New Providence and Grand Bahama, although a legislated legal aid program did not exist.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. 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. Many foreign suspects paid bail and fled the country to avoid prosecution and extended detention.

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. It was not unusual for a murder suspect to be held 2 years before trial and on occasion up to 4 years. An AI report stated that, in August 2002, at least 735 of the over 1,000 prisoners at Fox Hill were awaiting trial.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at a detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtained legal status. In the detention center, which can hold up to 500 detainees (with tent space for an additional 500), women and men were housed separately. The highest occupancy during the year was approximately 750 in May. Haitians usually were repatriated within 48 hours, due to increased cooperation between Bahamian and Haitian authorities and improved efficiency in processing. Average length of detention varied dramatically by nationality and availability of funds to pay for repatriation. Illegal immigrants convicted of crimes other than immigration violations were held at Fox Hill prison where they may remain often 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.

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.

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; however, a police inspector or more senior police offi-

cial may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

*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 granted 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. The Constitution explicitly calls for respect for Christian values, and there were no allegations of violations of religious freedom during the year.

For a more detailed discussion, see the 2003 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 providing for the granting of asylum and/or refugee status to persons who meet the definition of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and applications for political asylum were supposed to be adjudicated on a case-by-case basis at the cabinet level. The Government asserted that all migrants who claimed asylum were interviewed by trained immigration officials; however, this was disputed by AI. The UNHCR reviewed the interview records of cases they were provided and offered recommendations 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. Coupled with the lack of Creole-speaking immigration officers, Haitian migrants were often unaware of their right to claim asylum, resulting in limited requests for asylum screening. In addition, those requesting asylum screening often lacked access to legal counsel.

The Department of Immigration reported that 4,654 persons were repatriated to their home countries during the year. A total of 12 persons (all Cuban nationals) requested asylum; 6 of these cases were recommended for approval and were pending a response from Cabinet at year's end. The other six were denied.

*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 PLP and the opposition Free National Movement (FNM). In May 2002, the PLP won 29 of 40 seats in the House of Assembly and formed the new Government under Perry Christie. The FNM won only seven 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 had 8 elected female members; there were 7 appointed female Senators, including the President of the Senate. A woman served as Deputy Prime Minister and Minister of National Security. Women also headed several other ministries.

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

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were 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 toll-free hot line in New Providence and Grand Bahama, with trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations conducted public awareness campaigns highlighting the problems of abuse and domestic violence. In 2000, the Department of Social Services, in partnership with a private company, established, for the first time, a safe house 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 and has a backlog of at least a few months. The court can and does impose various legal constraints to protect women from abusive spouses or companions. Advocates for women's rights saw a need to improve the effectiveness of enforcement of the court's orders.

Women's rights groups 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 for all incoming officers and offered continuing training in domestic violence. The police force has made efforts to increase awareness of domestic violence in the Family Islands.

Rape, including spousal rape, is illegal. The RBPF Central Detective Unit issued a Preliminary Report stating there were 111 rapes reported during the year, down 20 percent from 2002. The Police Force credited public outreach programs and the involvement of the Department of Social Services, the Crisis Center, and the Adolescent Clinic for this decrease. Prosecutions and convictions on rape charges were common, and the maximum penalty was frequently applied.

Prostitution is illegal. According to the Chief Superintendent of Police, there was at least one raid of a "strip tease" establishment in which prostitution was practiced. No minors were found to be involved in this instance.

The Constitution does not provide women 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. Prominent women of all political persuasions continued to push for an amendment to the Constitution and related laws to redress this situation. However, the introduction of a similar amendment in 2002 failed for a lack of popular support, largely due to opposition from religious leadership.

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

*Children.*—The Government claimed child welfare and education are priorities, but lacked sufficient funding to maintain and improve standards. The public schools, in particular, lacked basic educational materials, and facilities were overcrowded and substandard. Public education is compulsory for children through the age of 16, and most children attend school until this age. Cultural biases often forced unwed pregnant teenagers out of public schools, and a quasi-governmental group sought to put these girls in an alternative school program. The Department of Social Services is responsible for abandoned children up to 18 years of age, but had very limited resources at its disposal. The government hospital housed 21 abandoned children for a few years because there was no effective foster care program in which to house them.

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.

The Central Detective Unit reported 145 cases of unlawful sexual intercourse with minors during the year. An additional 17 cases of incest were reported to the police. Further breakdown of these statistics was unavailable. The law requires that all persons who have contact with a child they believe to be sexually abused 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.

*Persons with Disabilities.*—Although the 1973 National Building Code mandates certain accommodations for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement. 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. Parking for the disabled was provided in most parking lots. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

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 (approximately 10 percent of the total population) resided in the country legally, some observers believed that an equal or greater number 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, nonviolent inter-ethnic 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.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides labor unions with the right of free assembly and association, and workers exercised 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. Almost one-quarter of the work force (and 80 percent of the workers in the important hotel industry) belonged 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 (IRA) prohibit anti-union 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 IRA 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 IRA 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 is 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 owns 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.

*e. Acceptable Conditions of Work.*—Effective July 1, 2000, the minimum wage for government employees was \$4.45 (B\$4.45) per hour. A minimum wage for the private sector was established in January 2002, at \$4.00 (B\$4.00) per hour. 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 2001 Minimum Wage Act, which reduced 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 is 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.

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## BARBADOS

Barbados is a longstanding constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. Citizens choose their representatives in elections, which are free and fair. The most recent parliamentary election, held in May, returned Prime Minister Owen Arthur of the Barbados Labour Party (BLP) for a third successive term in office. The judiciary is independent.

The Royal Barbados Police Force (RBPF) is responsible for law enforcement and is under the control of civilian authorities. The small Barbados Defense Force (BDF) maintains national security and may be called upon to maintain public order in times of crisis, emergency, or other specific need. During the year, members of the security forces committed some human rights abuses.



The market-based economy relied on tourism, services, light manufacturing, and agriculture. The country's population was approximately 276,000. The Government was the largest employer, employing about 20 percent of the work force. Real economic growth was estimated at 2 percent during the year, compared with a decline of 0.6 percent in 2002. The inflation rate was about 2 percent, compared with 0.1 percent in 2002. Tourism rose by 4.5 percent, compared to a drop of 2.8 percent in 2002. The unemployment rate at the end of September was 11.7 percent, versus 10.3 percent in 2002.

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 and reports of poor prison conditions. Societal violence against women and children remained problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—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.

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 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.).

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.

Prison conditions remained inadequate. The sole adult prison (Glendairy) was antiquated and overcrowded, with more than 940 male and 44 female inmates in a 150-year-old structure built for 350 inmates. In September, the Government approved the construction of a new maximum security prison with planned capacity for up to 600 prisoners.

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

There is a separate wing for female prisoners at the adult prison. The sole juvenile prison has separate facilities for boys and girls.

As a result of the alleged beatings of 36 inmates in 2001, the authorities brought 100 charges against 9 prison officers, mainly for assault. 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 have the right to counsel, and attorneys had ready access to their clients.

For a decade, the authorities have issued firearms to special RBPF 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 1,328-person 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 as needed with special joint patrols.

The police force has a complaints authority known as the 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 board to review complaints against the police, this entity was not yet functioning at year's end.

The Constitution prohibits 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 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 in family matters, child support, criminal cases such as rape or murder, and for all cases involving minors. There is a limit of approximately \$2,100 (λ1,300) 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 such actions, and the Government generally respected these prohibitions in practice.

The Government did not censor mail. However, the Government restricted the receipt and importation of foreign publications deemed to be pornographic.

#### *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. 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 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. At year's end, a court case arising from arrests at a 2001 student demonstration 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. While the predominant religion was Christianity, members of many other religions worshipped with full freedoms.

For more detailed information, see the 2003 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 has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

#### *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 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 exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bi-

cameral Parliament and the judicial system. In the May elections, the BLP, led by Prime Minister Owen Arthur, won its third parliamentary election, returning to office with a 23–7 seat majority over the Democratic Labour Party.

There are no legal impediments to the participation of women and minorities in government or politics. Approximately one-third of the cabinet members were women, including the Deputy Prime Minister, who served concurrently as the Attorney General and Minister of Home Affairs.

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

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

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 is 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.

The Government sustained a well-financed fight against the high incidence of HIV/AIDS. In addition to actions designed to limit the spread of the disease, the Government initiated programs designed to assist persons living with HIV/AIDS and to discourage discrimination against infected persons.

*Women.*—Violence and abuse against women continued to be significant social problems. One official reported that one of every five injured women treated in the emergency room was there as a result of domestic violence. In March, the U.N. Committee on the Elimination of Discrimination Against Women specifically raised concerns about violence against women in reporting to the U.N. General Assembly. In 2001, there were 71 cases of rape reported to the police; more recent figures were not available but the Police Commissioner reported a 22 percent decrease in rapes reported during the year. Spousal abuse remained a significant criminal activity during the year, despite legal protections against spousal rape for women holding a court-issued divorce decree, separation order, or nonmolestation order.

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 issued. The courts can sentence an offender to jail for breaching such an order. The police has a Victim Support Unit, made up of civilians and volunteers, which 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 trained counselors and provided legal and medical referral services. 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.

Prostitution is illegal, but it was a problem, fueled by poverty and tourism. The media occasionally reported about prostitution, usually in the context of concern over HIV/AIDS. There is no statute specifically prohibiting sexual tourism, and no statistics on it; anecdotal evidence suggests it occurred.

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 year's end, compared to a rate of 8.9 percent for men.

Sexual harassment in the workplace was a problem, but no statistics were available. Media reports often indicated that women were afraid to report sexual harassment because they feared persecution in the workplace. Legislation aimed at pre-

venting 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, continued to increase. Nonetheless, women held only 162 police positions out of the total of 1,328.

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

*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 has 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 and boys under 16 years old. In September, the Child Care Board Chairman reported that at least 1,023 girls between ages 11 and 15 were victims of statutory rape in the years from 1977–2001, based on birth data. 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. Informal surveys suggested that there were 10–12,000 persons with disabilities in the country. The Ministry of Social Transformation established a Disabilities Unit to address the concerns of persons with disabilities and created an advisory committee on disabilities. Despite these efforts, in September newspapers again reported problems of added fees assessed to parents and transport difficulties for disabled children at government schools. Free primary school education was not available to all persons with 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 2002, 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, but no action to adopt such policies had been taken by year's end.

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. Of a work force of 144,800 persons, approximately 30 percent belonged to trade unions. Of those employed, 28,000 worked in the public sector, 20,400 in wholesale and retail trade, and 13,100 in the tourism sector. 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 do not have the force of law.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees are 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 in 2000, Parliament approved an allowance package for certain ranks of the police force.

There are 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 about \$3.00–3.50 (BDS\$6.00–\$7.00) per hour. 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 respects ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers 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 are no laws specifically addressing trafficking in persons, although laws against slavery and forced labor could be applied. The Government signed but has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the U.N. Convention against International Organized Crime. There were no reports that persons were trafficked to, from, or within the country.

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## 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 governed 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 22 of the 29 seats in the House of Representatives following generally free and fair elections on March 5. The judiciary is independent.

The Police Department has primary responsibility for law enforcement and maintaining order. The Belize Defence Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Armed BDF soldiers routinely accompanied police patrols in Belize City in an attempt to reduce the violent crime rate. The police report to the Minister of Finance and Home Affairs, while the BDF report to the Minister of Defence and National Emergency Management. The civilian authorities maintained effective control of the security forces. Some members of the security forces 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 262,000. There was a very small industrial sector, comprising limited agribusiness, clothing, and boat manufacturing. The agricultural sector was heavily dependent upon preferential access to export markets for sugar and for bananas. In 2002, gross domestic product grew at a rate of 4.4 percent, inflation stood at 2.3 percent, and 40 percent of the population lived in poverty.

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 members of the security forces, allegations of arbitrary arrest and detention, and lengthy pretrial detention. 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, but the Government enacted and enforced anti-trafficking legislation.

### 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; however, the security forces were accused of some unlawful or unwarranted killings.

On June 7, police constable Sheldon Arzu killed Ruben Alarcon in the police station on Caye Caulker. Alarcon died from two close-range gunshot wounds to his back. Alarcon, who was not in custody at the time of the killing, was at the police station seeking the release of two friends. Police officials told the press that Arzu acted in self-defense after Alarcon threatened him with an empty beer bottle. The

police department suspended Arzu and, on June 19, charged him with manslaughter. At year's end, his trial was pending.

On June 14, a group of police officers fired into a crowd outside a Ladyville nightclub, killing Darnell McDonald and injuring two others. A police investigation concluded that police constable Sherwood Wade fired the fatal shots. The authorities charged Wade with manslaughter, and his trial was pending at year's end.

On August 20, prison guards killed inmate Mark Stuart. Media reports claimed Stuart was shot 49 times. Stuart, who was awaiting trial on a murder charge, had been acquitted of killing a cellmate during a prison stay in 1998. A preliminary investigation indicated that Stuart attacked a prison officer with a knife and refused to back down despite a warning shot fired into his leg. It was unclear whether any guards would be reprimanded for the killing, but all prison guards subsequently exchanged their weapons for stun guns and pepper spray.

On September 10, BDF private Giovanni Gutierrez shot and killed Aaron Mariano while on a routine Belize City police patrol. Press accounts stated that the patrol wanted to detain Mariano for allegedly assaulting a police officer earlier in the day, and that Mariano was unarmed and running away from the patrol when Gutierrez shot him in the back of the head. Although reports conflicted as to whether Gutierrez acted under orders, authorities charged Gutierrez with manslaughter.

There were no developments in the January 2002 deaths of Kirk Thompson and Edmund Velasquez. On August 5, the Prime Minister's office released the official Commission of Inquiry report into the September 2002 deaths of two Maya loggers at the hands of five forestry and police officials. The report found that the use of lethal force against Alfredo Teck and Seriano Choc was justifiable and that the officers acted in self defense.

In January, the authorities charged police constable Kevin Alvarez and his two brothers with murder and conspiracy to commit murder in the December 2002 shooting death of Albert Pennil.

On February 5, the Chief Justice sentenced police constable Mervin Vernon to 9 months' imprisonment and a payment of \$2,500 (Bz \$5,000) to the victim's family, after a jury found Vernon guilty of causing death by careless conduct in the 2001 killing of Frederick Reynolds.

*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 or other inhuman punishment; however, there were several reports that 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 abuses featured in the press were never reported to the Ombudsman's office. In many cases, the Government ignored reports of abuses; withheld action until the case had faded from the public's attention, at which point no action was taken; or transferred guilty officers to other districts. Despite this generally poor approach, the Government did take action in a small number of cases. 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.

On August 24, police superintendent Ewart Itza, in civilian attire, ordered uniformed officers to detain Lincoln Cardinez and Timothy Cano. Once at the Dangriga police station, Itza beat Cardinez and pistol-whipped Cano in the head. Itza ordered the subordinate officers not to provide Cano with medical care; both men were locked in a cell overnight before being released without charges the next morning. The authorities investigated the brutality claims, charged Itza with wounding and harm, and suspended him pending trial. On December 5, police further charged Itza with false imprisonment, threat of death, aggravated assault, and using insulting or indecent words.

On December 22, the police suspended constable Adrian Lopez and charged him with attempted rape and indecent assault. The victim reported that Lopez arrested her for a traffic violation and drove her to a deserted airfield, where he tried to rape her before she escaped.

There were no developments in the May 2002 case in which prison officer Ean Daley shot and injured four inmates.

Prison conditions were poor, but they improved during the year due to initiatives undertaken by new private management. The country's only prison, in Hattieville, built in 1993 and designed for 500 inmates, held 1,050 male and 24 female prisoners, resulting in significant overcrowding. The budget provided only \$6 (Bz\$12) per prisoner per day to cover all operating costs of the prison. In the remand sec-

tion, 205 detainees shared 30 15- by 20-foot cells, equipped with beds for only a quarter of that number. The prison had a medical clinic with four beds, a full-time doctor, and two nurses. Prisoners often had to pay for their own treatment and medicine.

Pretrial detainees were housed in overcrowded cells separate from convicted criminals. 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. Incidents of gang- and drug-related violence in the prison continued. Prison breaks, confiscation of weapons, and reports of beatings also occurred during the year.

There were reports of brutality by prison wardens. Inmates claimed that guards sometimes beat troublesome prisoners. A common punishment was placing inmates in a small, unlit, and unventilated punishment cell.

In addition, prisoners enforced their own code of conduct and attacked prisoners convicted of heinous crimes such as child molestation. On June 17, convicted murderer Phillip Tillet walked past security and left the maximum-security section of the prison. He then stabbed and killed Kirk Belisle, a medium-security burglary convict. Tillet was charged with murder, although prison guards denied seeing the stabbing.

The prison included a separate facility for women, located 200 yards outside the main compound. Conditions in the women's facility were significantly better than those in the men's compound. The 24 women held there occupied 17 cells. The facility was clean, and inmates had access to limited educational and vocational classes.

Juvenile prisoners lived in a separate, newly reorganized section of the main prison. The new youthful offenders program included 16 hours per day of structured schooling, exercise, and vocational training. Opportunities for work or skills training at the prison expanded to involve approximately 60 percent of prisoners. Inmates earned small stipends for work on projects like the prison's farm, construction projects, and internal public announcement station. Some took welding or crafts classes or took advantage of a limited educational curriculum, and 14 became certified emergency medical technicians.

In 2002, 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 streamlined finances and increased professionalism among the staff. In May, 37 prison officers completed a 5-week training course on topics including first aid, prison rules, and justifiable force. An additional 41 officers finished the training in July. Kolbe believed it could improve the prison by reducing endemic waste and corruption and by using 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.

The 870-member national police force had a hierarchical structure and was generally effective in responding to complaints; however, lack of resources and corruption were problems. Police sometimes succumbed to the lure of bribes in the face of their low salaries. In February, a donation of 100 vehicles contributed to greater police presence on the streets.

The Police Department's internal affairs and discipline (IAD) section, the Director of Public Prosecutions (DPP), and the Ombudsman's office investigated allegations of abuse by officials. According to IAD, there were a number of sanctions against police officers for infractions during the year. The vast majority of these were for petty offenses, such as being absent without leave, but a small number of the offenses were more serious. No detailed data were available.

Police were required to obtain search or arrest warrants issued by a magistrate, except in cases of hot pursuit, when there was probable cause, or if the presence of a firearm was suspected. Customs officers could search a premise with a writ of assistance issued by the Comptroller of Customs. The law requires police to inform a detainee of the cause of detention and to bring the person before a court to be charged formally within 48 hours of arrest. In practice, 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 dismissed 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 a phone call after arrest. Bail was avail-



able for all cases except murder and was granted in all but the most serious cases. In cases involving narcotics, 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. At year's end, 19 percent of the prison population was on pretrial detention (see Sections 1.c. and 1.e.).

The Constitution prohibits 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.

Judges hold lifetime appointments (until the mandatory retirement age of 65). Only one of the four Supreme Court justices was a citizen. There were 17 magistrates and 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 Government appointed the Director of Public Prosecutions to the job for life. The DPP reported no attempt at political interference in his job. The judiciary was seen as relatively honest.

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

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Defendants have the right to be present at their trial unless the opposing party feared 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. 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.

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. 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, some disputes regarding the Government's exercise of eminent domain rights remained unresolved despite pending for years in the courts.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The 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, 2 of which were owned by major political parties. There were no daily newspapers. All newspapers are subject to the constraints of libel laws, but these laws have 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 10 privately owned commercial radio stations and 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 retained the 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 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.

*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 2003 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 refugee status or asylum to persons who meet the definition in 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 asylum seekers and to represent its interests. It was unclear how many outstanding refugee or asylum claims there were as of year's end. There were no 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.

Since 1999, the Government has not accepted asylum applications, and there was no legislation that formalized the asylum process.

On July 30, the Government refoiled 15 Cubans who fled Cuba by boat and drifted into national waters in mid-July. Immigration authorities arrested all 15 persons and detained them at Hattieville prison for 2 weeks. The Government chartered two single-engine aircraft to fly the Cubans back to Havana under guard. The group resisted boarding the planes; once aboard, security personnel handcuffed them to their seats. In press interviews prior to their refoiling, the group expressed fear of returning to Cuba. However, they did not request asylum; the local NGO representative who works with UNHCR on asylum claims stated that was because they had heard of multiple cases in which the Government denied asylum requests to Cubans. Some of the detainees told the media they had hoped for the same fate as a group of 22 Cubans in December 2002. In that case, the Government sent the Cubans, whose asylum claim was denied, back to sea weeks after they washed ashore.

### *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. In March, the PUP won re-election, maintaining 22 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 and the United Democratic Party (UDP). Another political party, calling itself "We the People," was formed in 2001 and fielded several candidates in the election. The country's ethnic diversity was reflected in each party's membership.

No laws impede participation of women in politics, and 82 percent of both men and women were registered to vote. There were two women in the House of Representatives; one was an elected Representative and the other was appointed to serve as Speaker of the House. There were 3 women in the 12-member appointed Senate, and another woman served as president of the Senate. There was one woman in the Cabinet, and three women were chief executive officers of ministries.

There are 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.

On January 29, the HRCB criticized the police following the arrest of one of its members, Antoinette Moore, and her husband, Michael Flores, on drug trafficking charges. Moore and Flores lived in Hopkins but owned a farm several miles from their residence where the drugs were found. The HRCB stated the charges were intended solely to silence opponents of police brutality in Dangriga. Flores, a talk radio host, spoke repeatedly about worsening brutality on his radio program and had been warned by police to stop his commentary prior to the arrest. Moore was well known as an attorney and for her involvement with the HRCB. The case was scheduled for trial in March 2004.

In 1999, the Government created the position of Ombudsman to act as a check against governmental abuses. The Ombudsman stated in his fourth annual report that he received 307 formal complaints between April 2002 and March. While most complaints were against the Government, a number were against private entities. There were 120 complaints against the Police Department, 33 regarding the Lands Department, and 16 each against the Department of Corrections and the Family Court. 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. There was some societal discrimination against persons with HIV/AIDS, and the Government worked to combat it through the public education efforts of the National AIDS Commission, established in 2002.

*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. 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 treated 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 legal; however, the law prohibits loitering for prostitution, operating a brothel, and soliciting 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.

Despite constitutional provisions for equality, women faced social and economic prejudice. It was harder for women to find employment, and most employed women were concentrated in female-dominated occupations with 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.

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 served as assistant police commissioner, chief elections officer, AIDS commissioner, and Minister of Defense. Women also headed the Belize Citrus Growers Association, the Government's trade promotion board, and several prominent environmental NGOs. 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.

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.

*Children.*—The Government was committed to children's rights and welfare. 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 one-half of the children finishing primary school; competition for spaces in secondary school was intense. Education was nominally free, but school, book, and uniform fees placed education out of reach for many poor children. There were also many truants and dropouts. A study published in April concluded that girls and female teachers were victims of discrimination in the schools. 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.

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. Sexual abuse of minors, including incest, was a problem. The Families and Children Act allows authorities to remove a child legally from an abusive home environment and requires parents to maintain and support children until they reach the age of 18. In 2002, the Ministry of Human Development, Women and Children, and Civil Society 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 neither provides specifically for accessibility for persons with disabilities nor prohibits 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 People.*—Among the country's indigenous persons, 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, some-

times with the collaboration of NGOs concerned with environmental and indigenous issues.

On October 24, the Inter-American Commission on Human Rights (IACHR) issued a report finding that the Government violated the rights of the Maya to land in the Toledo district. The report recommended that the Government recognize the Mayan right to traditionally occupied communal property and demarcate such property before taking any further actions on disputed land. At year's end, the Government had not responded to the IACHR report.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers generally were free to establish and join trade unions. Eight 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 acted as representatives for their membership, but the National Trade Union Congress of Belize permitted only unions that held free, 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 anti-union discrimination. However, since 1989 the International Labor Organization (ILO) has been drawing the Government's attention to the need to ensure that workers benefit from adequate protection against anti-union discrimination, stating that the fine of \$125 (Bz\$250) does not sufficiently dissuade acts of anti-union discrimination. According to the Trade Unions and Employers Organizations Act, any worker who is a victim of anti-union 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 firing 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 practiced it freely. 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. 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.

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 Government prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

*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 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 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. During the year, the ILO estimated that 11 percent of children between the ages of 5 and 17 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.

*e. Acceptable Conditions of Work.*—The minimum wage was \$1.12 (Bz\$2.25), except for domestic workers in private households, and shop assistants in stores where liquor was not consumed, and in export industries, where it was \$1.00 (Bz\$2.00) per hour. 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 did not provide a decent standard of living for a worker and family.

The law sets the 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 after being employed continuously for at least 5 years.

The exploitation of undocumented Central American workers, particularly young service workers and agricultural workers, continued to be a problem.

A patchwork of health and safety regulations covered numerous industries, and the Ministry of Labor enforced these regulations to varying degrees. The ministries committed their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints were 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 trafficking in persons; however, there were reports that persons were trafficked to and within the country, mainly from neighboring Central American countries.

In June, the Government enacted comprehensive legislation that prohibited all forms of trafficking in persons and made offenses punishable by fines of up to \$5,000 (Bz \$10,000) and imprisonment of up to 8 years. The law also provides for limited victims' assistance, although in practice government resources were too limited to provide meaningful aid to victims. Under the law, noncitizen victims willing to assist in prosecuting traffickers are eligible for residency status.

In August, a nationwide raid on 42 brothels resulted in the arrest of several brothel proprietors on trafficking charges and the identification of numerous victims, including a 16-year-old girl. Those arrested had not yet gone to trial by year's end; a hearing was scheduled for January 2004.

In June, the Government formed a National Task Force to combat human trafficking, comprising multiple ministries, NGOs, diplomatic representatives, police, immigration, and prosecution personnel. The task force established a protocol for investigating and handling trafficking cases under the new law. The police, immigration, and human services shared investigation roles in the August raid.

The National Committee for Families and Children reported instances of minors engaged in prostitution with an older man, in some cases 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 often stymied by the unwillingness of the girls' families to press charges.

There were few confirmed cases of trafficking in children for the purpose of prostitution. On October 22, police charged two male foreigners with unlawful carnal knowledge and trafficking in minor girls in Toledo district. The girls reported sex acts with the accused, and police found nude photos of some of them on the men's personal computers. The two reportedly had paid parents for access to the children.

In the May 2002 arrest of John Majarrez for carnal knowledge of 10- and 13-year-old Salvadoran sisters, criminal charges were still pending. In the south, there were reports of traffickers paying parents to take pornographic photos and videos of their children.

There were reports of persons trafficked for labor purposes. 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.

## 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. On October 17, protesters forced President Gonzalo Sanchez de Lozada, who been elected in free and fair elections in August 2002, to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. Mesa appointed a non-political cabinet and promised to revise the Constitution through a constituent assembly. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption, inefficiency, and political manipulation.

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations. The Judicial Technical Police (PTJ) conduct investigations for common crimes (cases that do not involve narcotics); the police provide security for coca eradication work crews in the Chapare region; the Special Counternarcotics Force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintained effective control over the security forces; however, rebellious elements of the police forces mutinied against government authority during a February demonstration. Some members of the security forces committed serious human rights abuses.

The country has a market-oriented economy. Poverty was extensive, and approximately 65 percent of the population of 8.4 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 or self-employed in the informal sector, and many citizens were barely linked to the cash economy. During the year, the economy grew by approximately 2.5 percent. 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 serious problems in several areas. Security forces killed dozens and injured hundreds of protesters during episodes of violent social unrest. A total of 27 members of the security forces were also killed and dozens of others injured during demonstrations or while enforcing internationally supported coca eradication policies. There were unconfirmed allegations of torture by the police and security forces. There were credible reports of abuses by security forces, including use of excessive force, extortion, and improper arrests. There were reports that military conscripts were mistreated. Prison conditions were harsh, and violence in prisons was a problem. There were credible reports of arbitrary arrest and detention. Prolonged detention remained a serious problem. The Government continued to implement a new Public Ministry Law to adapt the prosecutorial function of the judicial system to the requirements of the Code of Criminal Procedures (CCP). Other problems included pervasive domestic violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, and discrimination against Afro-Bolivians. Child labor and brutal working conditions in the mining industry were serious problems. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings committed by government agents; however, there were serious problems in several areas. Security forces killed dozens of protesters during three major episodes of violent social unrest (see Section 2.b.).

Between January 12 and 28, at least five civilians were killed when major violence erupted in the Chapare region as illegal coca growers (“cocaleros”) blocked the major Cochabamba/Santa Cruz highway (see Section 2.b.).

On January 14, near Sinahota, Chapare, coca grower Willy Hinojosa, 22, was shot to death. The Ninth Division claimed that troops, in response to an attack by protesters on their lead vehicle, first fired live ammunition into the air and then at the ground, as required by the division’s crowd control protocol. Officers speculated that a ricochet might have struck Hinojosa. Coca growers offered a different version of events surrounding the death of Willy Hinojosa. They said he had been

arrested in Sinahota and was shot while trying to escape. The Public Ministry was investigating the incident at year's end.

On January 15, coca growers complained to human rights groups that Felix Colque died as a result of a December 2002 tear-gassing by the Joint Eradication Task Force (FTC); however, there was no information to show that Colque inhaled tear gas or that he did not die from some unrelated illness.

There were no significant developments in the January 2002 killing of Marcos Ortiz Llanos in Sinahota, Chapare, who was allegedly shot by soldiers from the now-disbanded Chapare Expedition Force (FEC) during a cocalero demonstration.

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

An investigation remained open in the 2001 killing of Casimiro Huanca Coloque, a leader in the Chimore Coca Growers Federation, during a confrontation between the FEC and cocalero (coca grower) protesters (in Chapare, coca growing is always illegal). A military court and the Public Ministry had earlier concluded that there was insufficient evidence to charge the FEC soldier who had fired the shot.

In the case of Richard Cordoba, who died in 2001 while in police custody in Cochabamba, five police officers were tried and convicted in the death.

The Attorney General's office continued to investigate the 2001 killing near Los Amigos, Central Isarzama in the Chapare, of Nilda Escobar Aguilar, who was struck by a tear gas canister during a clash between demonstrators and security forces.

In the 2001 case of the deaths of 7 persons and injuries to 20 others in clashes between landless peasants and small landowners in Pananti near Yacuiba, a trial of 9 campesinos continued at year's end; in 2002, 8 convicted landowners received suspended 3-year sentences in the case, which was also pending with the Inter-American Commission on Human Rights.

Two former policemen, Juan Carlos Balderrama and Antonio Quispe, were convicted and sentenced to prison terms of 10 and 8 years, respectively, for the 1999 killing of Freddy Cano Lopez, who died of burns after his arrest.

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. The Congressional Human Rights Committee, the Ombudsman's office, the Vice Ministry of Justice and its Directorate of Human Rights, and nongovernmental organizations (NGOs) continued to press the Government to expedite action in the cases.

There were numerous reports of killings of government security forces by nongovernmental actors. On January 21, one soldier was killed by gunfire and four others were wounded in an ambush allegedly set by cocaleros at Siete Curvas. The attackers fled the area, and the case remained under investigation. Security forces were also killed and wounded by gunfire in La Paz, Warisata, Chasquipampa, and El Alto. Seven soldiers engaged in coca eradication in the Chapare were killed and 27 wounded by snipers or sophisticated explosive booby traps presumably planted by cocaleros. For example, on October 23, in the Isiboro Secure nature reserve, FTC soldier Julian Vila Flores, age 18, was killed by a command-detonated device presumably by militant cocaleros during coca eradication operations. On December 11, security forces arrested eight National Liberation Army-Bolivia (ELN-B) suspects connected to the booby-trap incidents, who were later released on bail. On December 16, authorities also arrested three ELN-B suspects in Viacha in possession of mortar bombs believed destined for the Chapare. Authorities believed that Colombian ELN suspect Francisco "Pacho" Cortes, who was arrested by police in El Alto on April 11 posing as a human rights worker, and two coca growers were responsible for planning the booby trap campaign.

There was progress in the investigation into the 2000 killings of Lieutenant Andrade, three other security officials, and Mrs. Andrade, who disappeared in the Chapare during violent disturbances and were later found tortured and killed. In July, Nancy Fernandez, the niece of one of the accused cocaleros (Chrisostomo Rodriguez), testified to police that the victims were abducted; then Mrs. Andrade was beaten by various women under orders of cocalero leader Margarita Teran and raped and mutilated by peasants in front of her husband; finally, all five persons were killed.

In 2002, at Sindicato Los Yukis, near Yapacani, approximately 30 armed and hooded men invaded a building of the Federation of Colonizers 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. The Attorney General's investigation continued at year's end.

There were several reported cases of alleged criminals beaten, lynched, or burned by civilians, sometimes resulting in death. For example, on November 6, in



Caramarca, Cochabamba, 4 alleged car thieves were beaten to death by a crowd of about 60 townspeople before police arrived on the scene.

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

In April, after a ruling from the Inter-American Court of Human Rights in the case of Juan Carlos Trujillo Oroza, who disappeared during the 1971–78 de facto regime of President Hugo Banzer, the Government awarded the Trujillo family \$400,000.

*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.

On January 13, coca grower Esteban Garcia Mamani was wounded during the army Ninth Division's attempts to disperse protesters when he received a severe injury to his jaw requiring extensive treatment. Forensic evidence contradicted initial reports that Garcia was shot and indicated that a tear gas canister most likely caused the wound. Neither the military nor the Public Ministry has released an official report.

On January 14, two coca growers, Luis Antonio Lizarraga and Ariel Moya Flores, were shot and injured as Ninth Division troops attempted to disperse a protest at Cruce Vueltadero. Humberto Ledezma Garibaldi, a university student, received a cut to the head and bruises.

On January 17, the Human Rights Ombudsman in Villa Tunari formally complained that, on January 13, army Lieutenant Ruddy Torrico Montano and other soldiers from the Ninth Division's CIOS II base in Santa Rosa forced their way into the Rio Alto home of 52-year old Gabina Contreras and beat her, leaving serious bruises that were documented on January 14 by the Ministry of Justice Human Rights Center. On January 14, CIOS II troops reportedly beat and illegally detained Contreras' husband Cresencio Espinosa, who, according to the Human Rights Ombudsman's representative in Villa Tunari, was released after he complained to Ninth Division commanders. The case remained under investigation at year's end.

In June, at the army's First Division in Viacha, several individuals were reportedly beaten or tortured by officers and noncommissioned officers (NCOs) following the theft of an automatic rifle consigned to soldier Rudy Brusly Lucana. Among those abused were Brusly, Rolando Quispe Flores, Angel Antonio Zucuasos Averanga, David Conde Ramos, and an unnamed civilian mechanic. The NGO Permanent Assembly of Human Rights of Bolivia (APHDB) launched an investigation into the incident along with military authorities.

During the September-October violence, security forces forced peasants on the Altiplano to clear the highways of rocks and other debris. The security forces sometimes forced them to remove their pants and shoes in an attempt to humiliate them and dissuade them from blocking roads.

Security forces clashed with each other in February and with demonstrators on several occasions during the year, resulting in the deaths of 90 demonstrators and approximately 800 injuries (see Section 2.b.). At least some of the injuries were attributed to tear gas canisters, rubber bullets, and live ammunition used by the security forces. Investigations into these incidents were pending at year's end.

The Public Ministry continued its investigation into allegations that security officials beat cocalero leaders whom they detained in Sacaba during the disturbances in January 2002 and that they beat other civilians to try to learn the names of those responsible for security officers' deaths.

Army major Luis Fernando Garcia, who in an apparently inebriated state reportedly shot and wounded Jose Luis Alvarez in November 2002, was tried in civilian court and acquitted.

There also were credible allegations that military commissioned officers and NCOs beat and otherwise mistreated military conscripts.

Minister of Defense Freddy Teodovich was removed from office in part for illegally forcing military conscripts to pick castor beans on his ex-wife's farm. Conscripts' daily budget for food is only \$0.20 (2.5 bolivianos), compared with \$0.25 (3.3 bolivianos) allotted to civilian prisoners for meals.

There were no further developments, and none were expected, in the investigation of the September 2002 case of Fructuoso Apaza who severely injured a police officer in a confrontation with the FTC in the Chapare.

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 (see Section 5).

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, intended to hold persons prior to the completion of their trials and sentencing, also were overcrowded. Convicted criminals often were housed in detention centers on a judge's order because of overcrowding in the larger prisons.

According to the Director General of the Penal System in the Ministry of Government, as of October, there were 5,587 (4,925 men and 662 women) prisoners in facilities designed to hold 4,700 prisoners.

A prisoner's wealth may determine cell size, visiting privileges, day-pass eligibility, and place or length of confinement. Cell prices reportedly ranged from \$17 to \$4,340 (132 to 33,850 bolivianos), paid to prior occupants or to prisoners who control cellblocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupied tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some sections obliged inmates to sleep sitting up. Although only children up to 6 years old were supposed to live with an incarcerated parent, children as old as age 12 lived with their fathers in San Pedro prison. According to the Director General, in October, there were approximately 800 children living with a parent in prison, as an alternative to being left homeless. The standard prison diet could cause anemia. The Government's daily budget for a prisoner's food was \$0.25 (3.3 bolivianos), and prisoners who could afford to do so supplemented the standard prison diet by buying food. Food and conditions at the Chimore detention facility were better than elsewhere. 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 could obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. In La Paz's San Pedro prison, three inmates tested positive for tuberculosis. Drugs and alcohol were readily available for those inmates who could pay.

In December, Mauricio "Chichuriru" Suarez, who recently had been transferred (along with other dangerous prisoners) to Chonchocoro maximum security prison, was found dead in his cell. An autopsy revealed strangulation marks and contusions indicating that the death was not a suicide. The case remained under investigation.

There are separate prisons for women, except for Morros Blancos prison in Tarija, where both men and women were incarcerated. 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 permitted prison visits by independent human rights observers and news media representatives, and such visits took place during the year.

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

Arrests were carried out openly, but there were credible reports of arbitrary arrest and detention. The CCP requires an arrest warrant, and the police must inform the prosecutor of an arrest within 8 hours. The Constitution requires that a detainee must be presented before a judge within 24 hours. The CCP provides that within this 24-hour period a prosecutor must obtain a judge's determination as to the appropriateness of continued pre-trial detention or release on bail, and the judge must order the detainee's release if the prosecutor fails to show sufficient grounds for arrest; however, credible reports indicated that in some cases detainees were held for more than 24 hours without court approval.

The National Police have primary responsibility for internal security, but military forces may be called upon for help in critical situations, which occurred during the year. Several police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty, in part because they rely on the PTJ to investigate their own officers. In September, the National Police established with international assistance a National Directorate of Professional Responsibility, which investigates allegations against police officers of malfeasance, wrongdoing, and human rights abuses.

Approximately 1,047 FELCN members, PTJ members, lawyers, law students, prosecutors, judges, and NGO representatives received training on the new CCP.

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 on human rights issues incorporated in general counternarcotics training. Basic FELCN and UMOPAR training includes a 40-hour human rights module.

Denial of justice through prolonged detention remained a serious problem, although the CCP 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 kept persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners were released if a judge ruled detention illegal, but the process could take months. Prisoners may see a lawyer, but approximately 70 percent could not afford legal counsel, and public defenders were overburdened (see Section 1.e.).

The Government continued to streamline the judicial system and took measures to correct other deficiencies. Most prisoners still awaited either trial or sentencing, but the courts began to provide release on bail for some prisoners. Judges 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 the suspect's travel.

Children from 11 to 16 years of age may be detained indefinitely in children's centers for known or suspected offenses, or for their protection, on the orders of a social worker. There is no judicial review of such orders (see Section 5).

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

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; 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. The Supreme Court hears appeals in general, while the Constitutional Tribunal only hears appeals on constitutional issues.

The CCP provides for a system of transparent oral trials in criminal trials; requires that no pretrial detention exceed 18 months; and provides for a maximum period of detention of 24 months in cases in which a sentence is being appealed.

The law provides that the prosecutor is in charge of the investigative stage of a case. The prosecutor instructs the police what witness statements and evidence are needed to prosecute the case. Counternarcotics prosecutors lead the investigation of narcotics cases. The prosecutor tries misdemeanor cases (with possible sentences of less than 4 years) before a judge of instruction and felony cases (with possible sentences of more than 4 years) before sentencing courts, each of which features a five-member panel that includes three citizen members and two professional judges.

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 were protected systematically, although 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 64 public defenders and 26 legal assistants nationwide. The public defender program also provided information about human rights to citizens and sought 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 travelled to the more remote parts of the country had some positive effect; however, public defenders remained overburdened.

The CCP also recognizes the conflict resolution (community justice) traditions of indigenous communities, provided that the resolution does not conflict with the rights and guarantees established under the Constitution.

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.

The military justice system generally was susceptible to senior-level influence 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 major infractions, the case is forwarded to a military court. Authorities recognized conflicts over military and civilian jurisdiction in certain cases involving human rights. An inter-ministerial commission, headed by the Vice Ministry of Justice, was charged to prepare legislation to address these conflicts as well as to incorporate various international human rights agreements into domestic law. During the year, the armed forces, in conjunction with the Human Rights Ombudsman's office, began a major human rights educational campaign in the three service branches.

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 against security forces. They were also reluctant to pursue formal complaints against coca growers because of fear of reprisals by the coca syndicates.

*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. 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.

Newspapers were privately owned and frequently adopted anti-government positions. State-owned and private radio and television stations generally operated freely. During the September 10–October 17 “gas war,” both the Government and the opposition engaged in disinformation through the media. For example, on October 12, the “People’s Television Station” incited the population to rebellion and falsely asserted that the security forces were using ambulances to transport troops and ammunition. On October 16, in Oruro, bombs placed by unknown assailants destroyed antennas belonging to the opposition radio network Erbol. Particularly during times of heightened national tension, journalists were threatened by individuals critical of their reports and were physically attacked and prevented from filming or doing on-the-spot-reporting.

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.

The Government did not restrict access to the Internet.

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 dozens of persons and injured others during three episodes of violent social unrest and demonstrations.

From January 12 to 21, cocaleros in and around the Chapare violently resisted the security forces’ attempts to enforce the law and reduce the illegal coca crop that is mainly used to manufacture cocaine. The cocaleros demanded suspension of forced eradication and often blocked a strategic highway used to transport legal products to market. During the confrontations, 5 civilians and 1 soldier were killed, and 60 civilians and 12 soldiers and police were wounded. Public Ministry and army investigations into one of the civilian deaths and the military killing were pending at year’s end.

On February 12 and 13, violence broke out when palace guards defending against a group of high school students stoning the presidential palace were attacked by a group of rebellious police. Two days of rioting and looting ensued in which 31 per-

sons (17 civilians, 9 police, and 5 military) were killed and approximately 200 injured. During the violence, sniper bullets entered the President's office, and two military officers on that floor were killed. In May, the Organization of American States (OAS) delivered a comprehensive report on the events, which concluded that there was insubordination in police units, that the President's life was at risk, that the Armed Forces generally acted appropriately, but that some cases needed more thorough investigation. The report recommended that the Attorney General's office investigate all police and civilian cases of alleged misconduct and that the military should investigate cases of misconduct within its jurisdiction. In August, the Attorney General's office indicted 16 persons (11 police officers, 4 military officers, and 1 civilian) in connection with the events; however, in November, the Public Ministry announced its investigation had stalled for lack of funds.

From September 20 to October 17, the so-called gas war, which culminated in the resignation of the President and his Cabinet, resulted in an estimated 60 to 80 persons (59 confirmed) killed and 400 injured, the great majority by gunshots. The conflict began when a hunger strike by Aymara leader and congressional deputy Felipe "Mallku" Quispe led his followers to begin blocking roads near Lake Titicaca; about 800 tourists, including some foreigners, were trapped in the town of Sorata. On September 20, after more than a week of unfruitful negotiations, the Government undertook an operation to rescue the virtual hostages. Peasants ambushed the security forces at Warisata and Ilabaya: 5 civilians and 1 soldier were killed, and 17 civilians and 7 members of the security forces were injured. The Sorata incident helped unite a loose nationwide coalition of opposition unionists, cocaleros, students, NGOs, and indigenous peasants against the Government. When these groups blockaded El Alto and other access points to La Paz, violent confrontations again ensued, particularly when demonstrators attacked convoys bringing fuel and other supplies to La Paz and government forces returned fire. The Government did not declare a state of siege during the conflict. The Public Ministry, the Human Rights Ombudsman's Office, the congressional Human Rights Commission, and NGOs opened a series of investigations, which were pending at year's end.

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

On April 11, police in El Alto arrested Colombian ELN suspect Francisco "Pacho" Cortes, who was posing as a human rights worker along with two coca growers. The group was found in possession of narcotics, seditious material, weapons, and bomb-making equipment.

*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 Government (about 300 priests received 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.

For a more detailed discussion, see the 2003 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, during the September 10–October 17 gas war, opposition protesters blocked major highways and for weeks created thousands of virtual hostages in La Paz and numerous other locations throughout the country (see Section 2.b.). 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 to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government accepted 3 of the 10 persons who applied for refugee status during the year. The total number of registered refugees, according to UNHCR, was 532, including Peruvians, Russians, Iraqis, Iranians and Cubans.

*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. Elections for national offices and municipal governments are held every 5 years; the next national election is scheduled for June 2007.

In August 2002, Gonzalo Sanchez de Lozada of the centrist Nationalist Revolutionary Movement assumed the presidency after he was elected in a joint session of the Congress following the June 2002 national election. Although there were some allegations of vote-counting irregularities, most observers, including a mission from the OAS, concluded that the elections were free and fair. On October 17, opposition protesters, including radical union and other dissidents and indigenous peasants (some of them coerced into protesting), forced President Sanchez de Lozada to resign from office. After a vote in Congress, Vice President Carlos Mesa Gisbert assumed office and restored order. President Mesa appointed a non-political cabinet and undertook to revise the Constitution under a constituent assembly, hold a binding referendum on exportation of natural gas, and revise the hydrocarbons law.

The National Electoral Court (CNE) and its lower departmental courts oversee the electoral process, including voter registration, tabulation, and certification of ballots. The CNE selects departmental electoral court judges, and Congress chooses head departmental electoral judges.

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 increased female representation to approximately 30 percent of municipal council positions. There were 28 women among the 157 deputies and senators, 5 women among the 46 vice ministers, and 1 woman in the 16-member Cabinet. There were two indigenous members of the Cabinet, and the number of indigenous members of the Chamber of Deputies was estimated at 25 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 ministries refused to cooperate when NGOs or the Ombudsman conducted investigations.

The Human Rights Ombudsman is a position with a 5-year term established in the Constitution. Congress chooses the Ombudsman, who is charged with providing oversight for the defense, promotion, and spread of human rights, specifically to defend citizens against abuses by the Government. The ombudsman's position was vacant for approximately 6 months, due to the resignations of two incumbents during the year. In December, Waldo Albarracin, the former president of the country's largest human rights NGO, the APDHB, was elected Human Rights Ombudsman. Indigenous persons filed approximately 60 percent of all complaints received by the Ombudsman. The congressional Human Rights Committee investigated alleged human rights abuses in the Chapare during the events of February 12–13 and the September–October gas war (see Section 2.b.).

The Chimore Center for Justice and Human Rights (CCJHR) continued to be active in the Chapare region. It reported its findings to the Vice Ministry of Justice in the Ministry of the Presidency, 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, and many cases went unreported. From January to October, family violence units of the police received 2,308 complaints from women, including complaints of violence and sexual harassment. Complaints against taxi drivers headed the list (52 percent), followed by police (15 percent), bureaucrats and unionists (13 percent), public employees (12 percent), and other professionals (8 percent). The laws to protect women and children from family violence were enforced irregularly.

Rape was also a serious but underreported problem. The Law on Domestic and Family Violence makes the rape of an adult 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 the 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 may be made public crimes; however, the victim must still testify. Sexual crimes against minors automatically are considered public crimes in which the state presses charges.

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 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. Women sometimes complained that their hiring was made more difficult because employers were reluctant to assume the additional costs (mainly maternal) in a woman's benefits package. The gender gap in hiring appeared widest in the higher education brackets. 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 U.N. Development Program 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. The Code for Boys, Girls, and Adolescents establishes the rights of children and adolescents, regulates adoptions, and protects against exploitative child labor and violence against children; however, resource constraints impeded full implementation of this law. 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, enforcement of this requirement was lax, particularly in rural areas, where more than half of the primary schools offer only three of eight grades. An estimated 26 percent of children graduated from high school. There were no significant gender differences in access to basic education, although girls continued to drop out at a higher rate than boys, particularly in the rural areas.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children less than 3 years old were chronically undernourished. A UNICEF report estimated that in 2001, 77 of every 1,000 children died before the age of 5. Many children, particularly from rural areas, lacked birth certificates and the identity documents they needed 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. Children from 11 to 16 years

of age may be detained indefinitely in children's centers for suspected offenses or for their own protection on the orders of a social worker. According to UNICEF, approximately 12,000 children were in institutions where their basic rights were not respected. There were also many children living on the streets of major cities. For example, 3,400 children, primarily female, were reported abandoned in El Alto during the year.

Child prostitution was a problem, particularly in urban areas and in the Chapare region. There were reports of children trafficked for forced labor to neighboring countries (see Section 6.f.).

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

Several NGOs 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.).

*Persons with Disabilities.*—Societal discrimination kept many persons with disabilities at home from an early age, limiting their integration into society. 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 and infrastructure impeded full implementation of the law.

*Indigenous People.*—In the 2001 census, approximately 62 percent of the population over 15 years of age identified themselves as indigenous, primarily from the Quechua and Aymara groups. Indigenous protesters were major protagonists in the events leading up to the October 17 resignation of President Sanchez de Lozada. 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. In October and November, indigenous peasants illegally occupied several private properties belonging mostly to former government officials.

Indigenous groups availed of the Popular Participation Law to form municipalities that offered them greater opportunities for self-determination. The CCP recognizes the conflict resolution traditions of indigenous communities (see Section 1.e.). The September-October gas war began when radical Aymara leader and congressional deputy Felipe "Mallku" Quispe began a hunger strike to protest the arrest of his indigenous colleague Edwin Huampo, who had been arrested for the 8-day torture and subsequent killing of two suspected cattle-rustlers. Quispe and others maintained that his acts were legal under traditional tribal law and that Huampo was immune to the legal jurisdiction of the "q'aras" (whites and mestizos). Huampo was freed on personal recognizance during the protests.

*National/Racial/Ethnic Minorities.*—There was societal discrimination against the small Afro-Bolivian minority, who 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. Approximately 25 percent of the workers in the formal economy belonged to unions, approximately 30 percent worked in the formal economy.

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 alleged that the private sector exploited a section of the 1985 Economic Liberalization Decree (which eliminated the Government's role in authorizing worker dismissals) 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. 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). 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.

Unions were not free from influence by political parties, but many in organized labor increasingly rejected traditional political parties and supported movements seeking radical change in the economic and political system. Labor unions were major protagonists in the October 17 demonstrations leading to the resignation of the President (see Section 3). 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 failed to deter employers from retaliating against workers, and the laws do not protect workers against interference by employers. Complaints of anti-union 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; however, collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, was limited. Most collective bargaining agreements were restricted to wages and excluded 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.

During the year, major strike activity included strikes by the National Police and a general strike that contributed to the resignation of the President on October 17 (see Section 3).

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 constituted forced labor in the agriculture sector. Trafficking of women and children was a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor was a serious problem. 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. The law prohibits a range of dangerous, immoral, and unhealthy work for minors under the age of 18. Labor law permits apprenticeship for 12- to 14-year olds 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 usually to help provide for family subsistence, usually in uncontrolled and sometimes unhealthy conditions. UNICEF estimated that some 800,000 children were engaged in some type of work, although the figure could be higher.

The extreme poverty of many families dictated the employment of their children to survive.

The Labor Ministry is responsible for enforcing child labor provisions but did not enforce them throughout the country. In 2002, the Government reported that approximately 800,000 children and adolescents between the ages of 7 and 19 were engaged in some type of work. 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. Narcotics traffickers used children to transport drugs. Child prostitution was a growing problem (see Section 5).

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 were no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

The new administration endorsed a 2001 plan to combat child labor 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 particular, the Government worked with NGOs to discourage the use of child labor in the mining sector by participating in an internationally funded program to provide educational alternatives to children who otherwise would work in mines and by re-forming an interagency task force to eliminate child labor.

*e. Acceptable Conditions of Work.*—The Government established 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.

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; however, it was not effectively enforced. 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. A national tripartite committee of business, labor, and government representatives was responsible for monitoring and improving occupational safety and health standards, and, according to a tripartite agreement signed during the year, some businesses took voluntary steps to improve workplace safety before the relevant enforcement provisions of the agreement came into effect. The Labor Ministry maintained a hotline 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 areas where toxic gases and cancer-causing dusts abound; bought their own supplies, including dynamite; had no scheduled rest periods; and often worked underground for up to 24 hours continuously. The law does not specify when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refused to work based on the individual’s judgment of excessively dangerous conditions could face dismissal.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons for sexual exploitation; however, there were credible reports that persons were trafficked within, from, and through the country.

The Law for the Protection of the Victims of Crimes Against Sexual Freedom specifically criminalizes trafficking in persons for the purpose of prostitution and provides for terms of imprisonment beginning at 4 years and ranging up to 12 years when the victims is less than 14 years of age. There were some arrests under this statute; however, there was no information available on convictions of traffickers.

A draft law on the sale, traffic and prostitution of children, which was passed by committees in both houses of Congress, remained pending.

The Ministry of Government, including the National Police and Immigration, as well as the Ministries of Foreign Affairs, Labor, Defense, and the Vice Ministry for Youth, the Child and the Elderly, were responsible for anti-trafficking efforts.

The country is a source for men, women, and children trafficked for forced labor and sexual exploitation to neighboring countries such as Argentina, Chile, and Brazil, as well as to Spain; however, there were no reliable estimates on the extent of the trafficking. Faced with extreme poverty, many citizens were economic migrants, and some were victimized by traffickers as they moved from rural areas to cities and then abroad. Women and children, especially from indigenous ethnic groups in the altiplano region, appeared to be at greater risk of being victimized. Children were trafficked within the country, often exploited in slave-like labor conditions in prostitution, mines, domestic servitude, and agriculture, particularly harvesting sugar cane. Because of its weak controls along its extensive five borders, the country is also a transit point for illegal migrants, some of whom may be trafficked. Commercial sexual exploitation of children was a problem.

While there were reports that some adolescents were sold into forced labor, it appeared that most victims were initially willing economic migrants who were duped or later coerced into accepting jobs that turned out to be forced labor.

Officials throughout the Government were known to take bribes to facilitate smuggling and the illegal movement of people; however, the Government did not condone or facilitate trafficking and removed approximately 50 immigration officials on suspicion of corruption. It was not known whether any of those dismissed were accused of involvement with trafficking. The Government also took measures, such as instituting a system of checks and balances at official border crossings and airports, to reduce corruption among judicial officials who authorize unaccompanied travel abroad of those under age 18.

The Government did not promote educational measures to address trafficking, but the ombudsman conducted informational campaigns on the rights of children and women. The Government's interagency committee to address the trafficking of adolescents has yet to produce a plan of action. The Government, in conjunction with UNICEF, began to provide free birth and identity documents to thousands of undocumented citizens, to reduce their vulnerability to being trafficked.

There were no programs of assistance to victims, except at the shelter in a sugar-growing area of Santa Cruz. Programs designed by the Government and international donors to empower women economically, keep children in school, and thus address vulnerability to trafficking abuses, remained unfunded.

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## 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 2002, voters elected President Luiz Inacio Lula da Silva ("Lula") 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 competed 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 is responsible for national defense and generally played no role in internal security. The federal police force is very small and primarily investigative; police forces fall primarily under the control of the states. The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order, with a separate judicial system. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The country had a market-based and diversified economy and a population of approximately 177 million. Successive governments have pursued a policy of reducing the traditionally dominant role of government in the economy. They encouraged greater private sector participation through deregulation, privatization, and removal of certain impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounted for 39 percent of gross domestic product (GDP), agriculture contributed 9 percent, and services the remainder. Exports consisted of both manufactured and

primary goods, ranging from regional airliners to soybeans. High government debt (approximately 58 percent of GDP) was primarily domestically held and complicated fiscal and monetary policymaking. Per capita GDP was approximately \$2,857 during the year and real average wages continued to fall, reflecting low GDP growth (0.3 percent) and unexpected inflationary pressures early in the year. Income distribution remained highly skewed.

The Federal Government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of several 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 2001, the federal police failed to act in the numerous human rights violations by state authorities.

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 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 independent bodies for review. The separate system of military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and contributed to a climate of impunity for military and civil police officers involved in extrajudicial killings or abuse of prisoners.

Rural violence, including the killings of land reform and rural labor activists, persisted. 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. Forced labor for adults and children continued. Trafficking in persons, particularly women and children for the purpose of prostitution, persisted.

#### 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, extrajudicial killings 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.

Statistics released by the Sao Paulo State Secretary for Public Security indicated that Sao Paulo police (civil and military) killed 678 persons during the first 9 months of the year. The actual number was likely higher, because the Public Security Secretariat numbers did not include killings by off-duty police officers. The Security Secretary's figures correspond to an average of 75 civilians killed by police per month in that state, a rate 32 percent higher than in 2002, and the highest figure since statistics on police killings began to be collected in 1995.

In September, the U.N. Special Rapporteur on Summary Executions, Asma Jahangir, visited the country on a 22-day fact-finding mission at the invitation of several human rights groups and the Federal Government. During the visit, government officials (including President Lula) and members of civil society acknowledged the continued problem of extrajudicial executions by law enforcement officials. Moreover, threats to witnesses, human rights defenders, and family members of victims by police were routine. "Death squads" with links to law enforcement officials carried out many of the extrajudicial killings, in some cases with police participation. Jahangir also was concerned that the police investigated themselves in cases of police killing civilians. A government report submitted to Jahangir by National Human Rights Secretary Nilmario Miranda stated that death squads operated in 15 states. Two witnesses who met with Jahangir, Flavio Manoel da Silva and Gerson de Jesus Bispo, were killed after separate meetings with the rapporteur. Da Silva reportedly had information that could identify members of a death squad that terrorized the border region between Paraiba and Pernambuco. Authorities arrested two people for his murder. Bispo, who was killed in Santo Anonio de Jesus in Bahia,

was believed to have similar information about death squads in the northeastern region of the country. Authorities arrested two military police officers for his murder. At year's end, neither case had gone to trial.

In September, the nongovernmental organization (NGO) Global Justice delivered a report to the U.N. stating that summary executions by police and death squad activity were still practiced in the country. According to the report, authorities summarily killed 335 people in 24 states since 1997, and no criminal action was sought in 202 of these cases.

According to the police ombudsman in the state of Rio de Janeiro, citizens registered 26 complaints of homicides by police in 2002. Citizen reports of police homicides fell by 30 percent in 2002, but the official statistics were believed to be only a small fraction of the actual police homicides. Amnesty International (AI) reported that police forces killed 917 civilians during the first 9 months of the year, a 36 percent increase over the previous year. The Rio-based Center for Security and Citizenship Studies estimated that Rio state police killed a total of 900 persons in 2002. A 2001 study by the Center showed that Rio de Janeiro state police killed an average of 3.5 civilians per 100,000 persons per year. AI documented evidence that the city's poorest communities were the victims of a violent and discriminatory public policing policy.

According to the Human Rights Commission of the Bahia Legislative Assembly, death squads killed 66 persons in Bahia State from January to August, compared with 302 persons in all of 2002. Many state officials continued to deny the existence of death squads in Bahia. Community leaders and judges claimed that some human rights abusers in Bahia, including state police, continued to enjoy impunity because of an inefficient justice system or official connivance.

According to public security officials, death squads involving the police continued to operate. Human rights groups reported the existence of organized death squads linked to the police forces that targeted suspected criminals and persons considered "undesirable"—such as street children—in almost every state.

The National Secretary for Human Rights established a commission to investigate alleged death squad activity in Guarulhos and Riberao Preto, both large cities in Sao Paulo.

In March, the military police internal affairs department in Guarulhos, Sao Paulo, opened an investigation into the existence of a police death squad that allegedly targeted troublemaking youths. The group was suspected of killing at least 12 adolescents and attempting to kill 8 others. There were allegations that the group was financed by business persons in Guarulhos, and families of the victims reported home invasions by the police and frequent night patrols of their neighborhoods with the intent to scare them into silence. In September, military policeman Claudio Honorio de Moraes and private security guards Sergio da Silva and Claudio Rodrigues dos Santos were formally accused in the April killing of three adolescents. Authorities held the accused in jail at year's end, and investigators considered the accused to have been active in death squad activities.

In March, in Riberao Preto, a judge denied a state prosecutor's request for a civil action against the state, the city, and the youth detention facility (FEBEM) for culpability in the alleged death squad killings of 88 adolescents between 1995 and 1998.

In the first 9 months of the year, the Sao Paulo ombudsman received 664 complaints of police killings, a 31 percent increase over the previous year. In May, authorities arrested 13 military police in Campinas, Sao Paulo, and accused them of killing William Douglas Santos and Fabricio Francisco da Conceicao. Witnesses reported seeing the two victims forced into police cars after a shootout. The two men were not seen again until their bodies were anonymously delivered to a hospital. An investigation into the case was completed and submitted to the state prosecutor; however, by year's end, no formal criminal charges were brought against the accused. A police internal affairs investigation was underway at year's end.

The Porto Alegre press reported that in the first 6 months of the year, police in Rio Grande do Sul State killed 22 civilians, compared with 13 during the same period in 2002.

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.

In March, Judge Alexandre Martins de Castro Filho was shot and killed in Vitoria, Espirito Santo State. Martins was a member of a group investigating alleged police involvement in organized crime and had been threatened since January. Investigators suspected 10 persons of involvement in the killing, including 5 military policemen.

In July, in Porto Alegre, a military police officer shot Gustavo Fernando Burchardt during a high-speed car chase, after Burchardt allegedly cut the cord of a credit card reader in a convenience store. The police originally filed a report that said Burchardt died as a result of a traffic accident during the chase, but one policeman admitted to shooting at Burchardt only after the bullet was found in his body. Police investigators treated the case as a homicide, but no further information was available at year's end.

In August, Chan Kim Chang, a naturalized citizen, was arrested at Rio de Janeiro's international airport for failing to declare the \$30,550 in his possession. While in police custody, Chang was beaten severely and later died. Rio de Janeiro State Secretary for Human Rights, Joao Luiz Duboc Pinaud, confirmed that police tortured Chang. The case was being investigated as a killing, but no arrests had been made by year's end.

In June, the U.N. Special Rapporteur on Torture noted that torture by jail and prison officials often resulted in death. Harsh prison conditions and prison riots continued to lead to the death of inmates (see Section 1.c.).

Police also killed street children, indigenous people, and labor activists (see Sections 5 and 6.a.). 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.

No further information was available on the trial of military policeman Guaracy Arede, accused of the 2002 molesting and killing of Alessandra Luisa de Carvalho Marques in Campo Grande, Mato Grosso do Sul.

No further information was available in the arrest of highway patrolman Jose Vargas de Oliveira, accused of killing a truck driver who would not pay a bribe in Campos, Sao Paulo, in February 2002.

In Sao Paulo, an internal police and state prosecutor investigation continued into the March 2002 highway deaths of 12 members of the criminal faction and prison gang "First Command of the Capital" (known as the PCC) by the military police organization called "Group for Repression of Crimes of Intolerance" (GRADI).

GRADI officers were accused of other killings, but no homicide charges were brought against them by year's end. All of the officers continued on active duty, with the exception of the former GRADI coordinator, who retired. GRADI was officially dissolved in April, but human rights groups believed that police from this group still operated in a similar, but less official, manner.

There were no new developments in the investigation of Sao Paulo military policemen who allegedly burst into a bar in 2002 in Baixada Santista and killed five adolescents and the bar owner while searching for a youth who stole a sergeant's weapon.

The trial of the anti-kidnapping police investigator accused of killing Jorge Jose Martins in his Campinas, Sao Paulo home in May 2002 was under way at year's end.

There was no new information in the case of Rio de Janeiro taxi driver Sergio Luiz Couto who was killed in February 2002, the day before he was to give a deposition accusing a group of military policemen of kidnapping him and demanding a ransom.

Two mayors in Sergipe State who were indicted in 2002 for ordering the September 2001 killing of labor leader and city councilman Carlos "Gato" Alberto Santos de Oliveira remained free, despite reportedly strong evidence against them.

In Espirito Santo State, the special federal-state task force continued its investigation of the organized crime group involving public officials known as the "Scuderie Le Cocq," for killings and death threats against judges, politicians, and ordinary citizens dating back to the 1960s.

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.).

Sao Paulo civil police internal affairs and the public prosecutor's office reopened the 2001 case in which five civil police killed four individuals suspected of involvement in the killing of the mayor of Caraguatatuba, Sao Paulo. Based on the recommendation of the police ombudsman, a prosecutor investigated the case, which previously had been closed by the police as a case of "resistance followed by death." The investigation continued at year's end.

There were no developments in the case of 85 police officers awaiting trial for their participation in the 1992 Carandiru prison massacre in which 111 prisoners were killed. The murder conviction of retired Colonel Ubiratan Guimaraes for his

part in the massacre was still under appeal, and he remained free and continued to serve as an elected state deputy.

There were no additional developments regarding the trials of military policemen Mauricio Miranda and Silvio Ricardo Monteiro Batista. Authorities arrested and detained the two in Guaruja, Sao Paulo, for the October 2002 killings of 17-year-old Anderson do Carmo and 20-year-old Celso Giolelli Malgahaes Junior.

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 deaths in prisons. Prison homicides, due to both prisoner violence and action by guards during rebellions, continued during the year, but official statistics were unavailable.

In June, in Manaus, Amazonas State, a prison rebellion resulted in the deaths of 12 inmates. According to inmates' testimony, the rebellion began after prison guards killed an inmate. No charges had been filed for the killings by year's end.

In December, in Puraquequara, Amazonas State, a prison rebellion resulted in the deaths of seven inmates. Authorities charged several prison guards with torture.

The criminal trial of Carlos Alberto Xavier do Nascimento, former director of security and discipline of the Andradina Penitentiary in Sao Paulo State, continued. He was charged with triple homicide in the 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

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

There were numerous killings of indigenous people, mostly related to land disputes (see Section 5).

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

Many persons were killed in recent years in conflicts involving disputes over land ownership and usage. The land rights organization known as the "Movement of the Landless" (MST) continued its campaign of invasion and occupation of private and public lands that it wanted the federal and state governments to expropriate for land reform. 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 53 rural laborers, landless peasants and indigenous people were killed and 4 threatened with death in land conflicts during the year.

In March, the president of the Rural Workers from Mascatinho Settlement Association, Jose Candido da Silva, also an MST member, was killed in Tamandare, Pernambuco. The crime was still being investigated by the civil police at year's end.

In August, the CPT reported that the courts tried only 6 cases in conjunction with 278 killings of landless, rural workers and rural labor leaders from 1995 to 2002.

In September, security guards shot and killed MST leader Paulo Sergio Brasil and 3 other MST members as they were moving with 100 others to invade the Coquerio Ranch in Foz do Jordao, Parana State. Authorities accused eight guards of homicide and one MST member with attempted homicide.

A police inquiry was concluded in the 2001 police killing of Jose Rafael do Nascimento, founder and leader of the Movement of Rural Workers in Mato Grosso do Sul State. Based on the conclusions of the police inquiry, the State Prosecutor's Office did not charge the policemen.

Also in Mato Grosso do Sul, a police investigation produced neither suspects nor arrests in the 2001 killing of MST leader Valdecir Padilha.

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

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.).

In May, authorities arrested Sao Paulo civil police narcotics investigators Arnaldo Barbosa Filho and Ricardo Kochi and charged them with kidnapping Jonathan Wink Soligo and Jefferson Santana de Souza. Additionally, the two investigators were charged with extorting \$150,000 (420,000 reais) from Jonathan's father, Erineu Domingo Soligo, an alleged drug trafficker linked to drug kingpin Luiz Fernando da Costa, also known as "Fernandinho Beira-Mar." After Jonathan and Jefferson were freed from the kidnappers, they were immediately arrested for trafficking 50 kilos of cocaine. The public prosecutor filed charges against the two civil policemen, who remained in preventive detention at year's end. An internal investigation resulted in a recommendation that the policemen be fired; however, a final determination had not been made by year's end.

In June, two Sao Paulo civil policemen from the Anti-Kidnapping Division and a military policeman kidnapped a man for cash and a car. One of the civil policemen

was fired from the police; there was no information available on any disciplinary action taken against the other two involved.

*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 June, the Foreign Ministry's Human Rights and Social Issues Department warned that the country risked U.N. sanctions if it did not take action to stop police torture.

In a 2001 report on torture in jails and prisons, then-U.N. Special Rapporteur on Torture Sir Nigel Rodley concluded that torture was still widespread, systematic, and often deadly (see Section 1.a.). 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. In June, the U.N. Special Rapporteur on Torture, Theo van Boven, stated that the country still had much work to do to combat torture and corruption. He noted the federal campaign against torture and the torture hot line initiated after Rodley's visit in 2000.

The Government continued its nationwide anti-torture campaign through the National Human Rights Secretariat. The Secretary acknowledged that torture remained a common practice among police to obtain confessions, and among prison guards to exact discipline. The Secretary also stated that police academies administered human rights courses and taught investigative techniques as alternatives to torture.

The NGO National Movement for Human Rights reported during the year that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that the majority of victims were low-income black men. It reported an average of 150 cases per month from October 2001 to June, mostly in remote cities in the interior where low-ranking police were in charge. Using figures provided to Global Justice, AI reported that the Sao Paulo State Public Prosecutor's Office had initiated only 30 prosecutions under the torture law since 1997.

The NGOs Prison Ministries and Christian Association for the Abolition of Torture released information about their research into torture cases in Sao Paulo prisons. Through prison visits between June 2000 and June 2002, the groups recorded 1,631 cases of torture in Sao Paulo prisons, although most prisoners did not report their torturers for fear of reprisals. The groups brought 3,000 cases of torture to the attention of authorities in Sao Paulo's police jails and penitentiaries from 1999 to 2002, and an additional 300 cases during the first half of the year.

In September, the National Human Rights Secretariat published the second "National Report on Human Rights in Brazil," which reported that regulations regarding complaints of torture in Sao Paulo prisons dictated that complaints were to be delivered to the state prison administration and the civil police for investigation. The report noted that authorities usually denied that their officials tortured prisoners or delayed medical evaluations. The report also highlighted regulations requiring victims to report abuses in the presence of the accused, which discouraged complaints.

In February, the internal affairs department of the Sao Paulo civil police concluded its investigation into an alleged "Torture Center" for troublemaking prisoners at the Itaquaquecetuba jail. The internal affairs department did not release its conclusions, but a Sao Paulo newspaper reported that a preliminary report had found that in 2001, at least 13 police departments transferred troublesome prisoners to Itaquaquecetuba, without the requisite judicial orders. According to the press report, prison officials encouraged prisoners at Itaquaquecetuba to beat and torture the transferees.

In March, military police injured at least 5 persons with gunshots, and authorities arrested 2 others when the police forcibly removed approximately 300 land rights activists from a farm in Nova Crixas, Goias State.

In March, police officers seeking a confession allegedly tortured Adenilson Felinto dos Santos, a truck driver suspected of transporting stolen goods, in his home. The National Movement for Human Rights was still investigating the case at year's end.

In April, a court sentenced civil police chief Juarez Francisco Mendonca to 16 years in prison for torturing suspected burglars and car thieves. The court sentenced two of his superiors, Sergio Pedrosa Martinera and Valdecir Versa, to 10 years each for their parts in the torture sessions.

In July, a Sao Paulo court began to hear the case against 13 military police accused in the torture of 2 prisoners recruited by GRADI to infiltrate the PCC crimi-



nal organization. The State Attorney General asked for an inquiry into the roles of two judges and the State Secretary of Public Security.

In August, the police ombudsman in Parana investigated a case in which mechanic Carlos Ribeiro Morais was tortured for 5 hours by civil police and ordered to confess to a series of robberies. Morais never confessed and was released. He filed a complaint with the police internal affairs department and the Brazilian Bar Association. Morais reportedly received an apologetic phone call from the governor of Parana; however, no information was available on whether disciplinary action was taken against the police involved.

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 police officers. The problem remained most pervasive at the state level.

The National Movement for Human Rights, which administers the Ministry of Justice's torture hot line, reported receiving 3,064 calls alleging torture or inhuman or degrading treatment from November 2001 to July. Among metropolitan capitals, Sao Paulo had the highest percentage of complaints. In 78 percent of the calls, the alleged perpetrators were public agents. Actual incidents of torture may have been significantly higher than use of the hot line indicated because ombudsmen, police stations, and state commissions also received complaints.

While agreeing that the hot line was a positive step, human rights activists cautioned that it did not address the core 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 military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see Section 1.e.).

No new information was available on police investigation in the 2001 torture case of Wander Cosme Carneiro, whom Sao Paulo civil police were accused of torturing while trying to obtain a murder confession.

No new information was available in the case of two alleged cigarette smugglers in Foz do Iguaçu, Parana State, reportedly beaten by two police officers.

Two years after the U.N. Committee on Torture's report was issued, Rio de Janeiro state authorities failed to investigate the 33 cases of alleged human rights violations by Rio de Janeiro police officers contained in the report.

The investigation of the police accused of the July 2002 torturing of Osmarilton Meneses dos Santos in Bahia continued.

Police violence against homosexuals continued. 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, Porto Alegre, Salvador, Belo Horizonte, and Brasilia (see Section 5). In some cases, these gangs allegedly included police officers.

Prison conditions throughout the country ranged from poor to extremely harsh and life threatening. Penal authorities in those states with the largest 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 and low pay for prison guards also encouraged corruption.

During the year, Sao Paulo State prison officials replaced 4,500 military police used as guards in state prisons with full-time prison guards responsible only to the Secretary for Prison Administration. All of the new guards reportedly have finished secondary school. Officials also took steps to improve the quality of the new guard force, including instruction in human rights, infectious diseases, drug addiction, and ethics.

Sao Paulo also attempted to improve conditions by building more prisons and creating committees of community leaders to monitor prison conditions. Since December 2002, prison administration officials from four facilities teamed with a group of specialists from the International Centre for Prison Studies to learn about and implement international accords regarding prison standards. The Centre made periodic training and evaluation visits to Sao Paulo. Sao Paulo, like 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. According to the

Ministry of Justice, there were 285,000 prisoners in a system designed to hold 181,000. Construction of penitentiaries continued but was inadequate to alleviate overcrowding.

Overcrowding was an even greater problem in police jails than in penitentiaries. The jails are intended to be temporary holding facilities; however, due to pretrial delays and overcrowding in state penitentiaries, some 72,301 of the 285,000 prisoners resided in local lockups, awaiting either trial or transfer to state penitentiaries. According to the Ministry of Justice, approximately 12,833 persons awaiting trial were incarcerated in Sao Paulo's local police stations. Another 15,350 who had been tried and convicted were awaiting transfer to permanent facilities.

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, prison authorities discriminated against homosexuals and patients with AIDS in prisons and often confined them to separate cells.

In the state of Rio de Janeiro, there were 8,000 persons incarcerated in local police stations and 26,200 incarcerated in state prisons. Both jails and prisons suffered from extreme overcrowding. In September, a jail built for 150 inmates in Niteroi, Rio de Janeiro, held 522. In an attempt to alleviate the overcrowding, state officials temporarily transferred 200 local jail inmates to a state prison. The prison, with a capacity of 350, already held 955 inmates.

In September, the Sao Paulo State judiciary sent a report warning the Governor and the Secretaries of Prison Administration and Public Security about the fragility of the police jail situation. The report noted that some police district and city lockups had surpassed their capacities by 700 percent. It cited numerous cases in which prisoners lacked potable water, slept standing up, breathed polluted air, and encountered blocked sewage lines. For example, the police jail in the Campo Belo neighborhood of Sao Paulo held 192 prisoners in a facility built for 30. In Peruipe, the local jail, which had only 4 cells with an intended capacity for 24 prisoners, held 122 men and 5 adolescents.

Sao Paulo's prison system, both penitentiary and local police jails, held 120,000 prisoners, or 45 percent of the national prison population. In September, the Secretary for Prison Administration told the state assembly that during the year the state prison population had increased at a rate of 1,500 per month.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture pervaded Sao Paulo's juvenile detention centers, known as FEBEM.

In April, the NGO Human Rights Watch delivered a report to the Sao Paulo State Assembly that stated that the FEBEM system abused adolescents and had not taken steps to improve. In June, a state prosecutor for youth reported that there were 7 active cases in the justice system accusing 98 current and former employees of torture. By September, 8 inmates and 1 employee were killed in FEBEM facilities, and 400 people had been injured.

In September, FEBEM fired eight employees for abusing inmates at the Raposo Tavares complex in 2000. The Director of the facility was suspended for 29 days for negligence in the case.

The number of FEBEM inmate rebellions increased during the year, reaching more than 30 by September. Also by September, the Public Prosecutor for Children and Youth had submitted to the state prosecutor's office, police, and FEBEM administration 156 cases of credible incidents of torture in FEBEM units in the city of Sao Paulo, some involving multiple victims.

From January to August, the Franco da Rocha unit of FEBEM experienced 17 riots. A state judge ordered the closure of the facility by the end of the year.

In April, following 3 successive riots and the escape of 121 inmates, FEBEM transferred 247 inmates without judicial orders from the juvenile facility Franco da Rocha to adult provisional detention centers (jails) in the interior of the state. In May, after authorities transferred the inmates back to FEBEM, there was a torture session at Franco da Rocha called the Polish Corridor. Inmates reportedly had to walk a corridor of broken glass barefoot while being beaten by guards. A state attorney for youth reported that 15 families of inmates reported the occurrence separately.

In June, members of the Human Rights Commission of the Brazilian Bar Association and AI found lesions indicating beatings on 30 percent of the FEBEM inmates. Inmates told the visitors that guards changed their torture methods to avoid leaving marks on bodies, such as blows to the abdomen and mock drowning.

There was no further information about a planned Inter-American Commission on Human Rights (IACHR) investigation into systematic human rights abuses in FEBEM. The IACHR acted 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 the investigations prejudiced "public security." FEBEM responded that such an investigation would be irrelevant since the facilities in question had been closed.

The states of Rio de Janeiro and Sao Paulo provided separate prison facilities for women. 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.

The Ministry of Justice reported that penitentiaries and police jails in Sao Paulo held 6,157 female prisoners in facilities designed to accommodate 2,373 women. In addition, a significantly higher percentage of women than men were held in the severely overcrowded police jails.

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

In September, in a Porto Alegre police jail, Luis Carlos Martins Rodrigues was fatally burned in a fire in his cell. The civil police chief in charge of the station was transferred immediately, but there was no further information on the investigation at year's end.

There was no new information in the January 2002 death of convicted kidnapper Fernando Dutra Pinto in the Belem Provisionary Detention Center in Sao Paulo. Reportedly, four guards suspected of torturing Pinto, who subsequently died, were relieved of duty but subsequently transferred to other prisons.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Although there was no official count, numerous prison riots and rebellions occurred during the year. The Sao Paulo Secretary of Prison Administration reported that there were 16 deaths in his system from January to September, compared with 97 during the same period in 2002.

There was no additional information concerning the case of three decapitated inmates at the Praia Grande Jail in Santos, Sao Paulo in 2002.

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. However, Global Justice reported that the level of access to prison facilities varied from state to state. In the case of Sao Paulo, Global Justice found it difficult to gain access.

*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.

The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. Police forces fall primarily under the control of the states and are divided into two forces: The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order. Although the individual state governments control 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.

In early 2002, a special commission responsible for curbing excessive use of police force in Sao Paulo was dissolved. The commission's requirement that police file a detailed lethal-force report after killing a suspect was not always enforced. The Sao Paulo Military Police Department requires police involved in killing a suspect undergo psychological evaluation before returning to normal patrol duties; however, the requirement was not always followed. Also, the police did not always comply with the procedure for assigning a police officer to administrative duties during an investigation into the death of a civilian.

In general, warrants were based on sufficient evidence and issued by a judge. They were not issued in secret; however, the National Movement for Human Rights and Global Justice reported that warrants at times were issued arbitrarily depending on the judge and the region of the country. Global Justice also reported that in Rio de Janeiro and Sao Paulo, many judges issued "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

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, prison authorities allowed detainees 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 Constitution provides for an independent judiciary and the Government generally respected this provision in practice; however, the judiciary 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 right to a fair trial.

The judicial system, with the federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organized their own judicial systems but have to 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 prepare an indictment for the review of a judge who determines if the indictment met the legal requirements to bring the accused to trial. A jury process tries those accused of capital crimes, including attempted homicide. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They have 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 have the automatic right to a retrial.

Special police courts composed of four ranking state uniformed police officials and one civilian judge have 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 the exception rather than the rule. With too few judges, 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, the civilian courts received very few case referrals. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the courts' 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 Section 1.a.).

Defendants are entitled to counsel and must be made fully aware of the charges against them. There is 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, courts frequently dismissed old cases 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 the National Movement for Human Rights, courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (see Section 5).

The July conviction of MST leader Jose Rainha Junior, for the repeat offense of illegally carrying a weapon, was controversial. There were claims that the MST was targeted politically in the sentencing. The presiding judge in the Rainha case received death threats. Rainha was released by year's end.

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.

In February, it was revealed that in past years, Senator Antonio Carlos Magalhaes allegedly ordered the illegal wiretapping of hundreds of individuals and political opponents in his home state of Bahia. As a result, the federal police launched an investigation, and the Bahia state assembly launched an inquiry. Senator Magalhaes had not been charged with wrongdoing at year's end.

The inviolability of private correspondence generally was respected.

#### *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 of the 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 has 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. The number of media outlets controlled indirectly by politicians was unknown, since concessions often were registered in the names of family members or friends.

Penalties for libel under the 1967 Press Law include imprisonment; however, there were no reports that this penalty was imposed during the year. 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. The Constitution permits compensation for moral damage but does not specify what constitutes such damages, nor does it specify any limits on fines or penalties.

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 annual ANJ report covering the period August 2002 to August cited numerous attempts to block or impede access to information and to intimidate free publication. The ANJ registered five cases of aggression against journalists in the exercise of their profession, five cases of censorship, and three killings of journalists for motives related to their profession.

In July, photographer Luis Antonio da Costa was shot and killed while covering a land invasion by the homeless movement “Sem Teto” at a Volkswagen plant in Sao Bernardo, Sao Paulo. The police arrested the alleged shooter, and an investigation was opened to determine if the shooting was related to the land invasion. Allegedly, the suspect robbed a convenience store just minutes before shooting da Costa and may have thought da Costa was trying to document the crime.

The trial of seven people accused of killing prominent Rio de Janeiro television journalist Tim Lopes in June 2002 was scheduled to begin at year’s end.

In September, the trials of two men charged with the 1998 killing of journalist Manoel Leal in Itabuna, Bahia, began.

There were no new developments in the pending trial of police officers Hercules Araujo Agostinho and Celio de Souza for the 2002 killing of Savio Brandao, owner of the *Folha do Estado* newspaper.

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.) and the activities of hate groups.

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

In August, an attorney from the Brazilian Bar Association’s Human Rights Commission alleged that at least 31 homeless activists were beaten by military policemen as the activists disbanded from a land invasion by the “Sem Teto” homeless workers movement in Sao Bernardo, Sao Paulo. The attorney reported that police stopped seven trucks carrying activists away from the invasion and assaulted the activists.

A federal judge barred a protest march by the MST and a counter-march by rural landowners in Rio Grande do Sul. The MST called the action unconstitutional, citing a right granted by the constitution to free movement within the country and the right to assemble peacefully in public. The judge stated that his obligation to preserve societal peace overcame individual constitutional rights.

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, and the Government maintained a Concordat with the Vatican; however, there was no official 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 National Indian Foundation (FUNAI).

Leaders in the Jewish community continued to express concern over the appearance of anti-Semitic material on Internet websites compiled by neo-Nazi and skin-head groups. In September, the Supreme Court upheld a 1996 Rio Grande do Sul State court conviction of editor Siegfried Ellwanger for racism. Ellwanger edited and wrote books considered to be anti-Semitic. The lower court’s ruling sentenced Ellwanger to prison for 2 years, but his sentence was converted to community service.

For a more detailed discussion, see the 2003 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 are 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 the granting of asylum and refugee status to persons who meet the definition in 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government provided temporary protection and cooperated with the U.N. High Commission for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, 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 2002 national elections, PT candidate Lula 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 2002 elections, the PT won 91 Chamber seats, but had 90 members in the Chamber by year's end. In the Senate, the PT won 14 seats, but had 13 senators by year's end. The coalition formed by the PT and other parties that support Lula's government numbered approximately 385 deputies in the Chamber.

Women have 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. There were 9 women in the Senate and 45 in the Chamber of Deputies. There were four women in the cabinet and one woman on the Supreme Court. President Lula created a cabinet-level special secretariat for women's issues and another for the promotion of racial equality.

There were six members of minorities in the cabinet and one on the Supreme Court. There were 27 Afro-Brazilians in Congress.

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

*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.

The Sao Paulo State Secretary for Prison Administration instructed all prison directors to allow more inspection visits by human rights NGOs.

In April, the U.N. High Commissioner for Human Rights criticized the Government for not answering 10 separate requests for information made in 2002 regarding the killings of and threats against human rights activists in the country. The Federal Government stated that individual states were responsible for answering each case.

In July, the Federal Government established a national coordinator to protect human rights advocates. The first regional offices were planned for Sao Paulo, Para, Tocantins, Pernambuco, Paraiba, and Espirito Santo, and the Federal Police were to provide the protection. The Sao Paulo police ombudsman stated that a Sao Paulo attorney was the first human rights defender to be considered for the protection program. The press reported that the attorney, a member of the Center for the Defense of Human Rights, received threats from the police after she began investigations into illegal arrests, home invasions, torture, and extortion.

In September, the press reported that the IACHR sent an official letter in August, calling on the Government to provide police protection for three human rights activists in Parana who reported on torture in the state's prisons. The three received numerous death threats, but still had not received protection by year's end.

In September, FEBEM initially denied the request of the visiting U.N. Special Rapporteur on Summary Executions, Asma Jahangir, to visit the facility in Bras stating that her visit would be disruptive of daily routine. After press scrutiny, Sao Paulo's Vice Governor authorized the visit. Jahangir noted that FEBEM conditions were horrible but withheld immediate statements on individual inmates for fear that they would suffer reprisals.

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.

A number of states have police 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 law provides prison penalties and fines for racist acts, including use of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin, but there were no known convictions under this law.

A new law to protect the rights of the elderly was adopted during the year. The law makes it a crime to discriminate against, abandon, or to fail to provide emergency assistance to the elderly, and carries a penalty of up to 6 months in jail. The law also makes it illegal for health care providers to base their fees on age and provides welfare payments equivalent to the national minimum wage for people aged 65 or older who do not have the means to support themselves and who are not supported by their families. The statute also requires priority treatment of cases involving the elderly by the judiciary and public housing.

The cities of Sao Paulo and Porto Alegre had police stations that specifically attended to the rights of the elderly. During 2002, the Sao Paulo station counted 300 cases of discrimination against the elderly per month. In 2002, the Sao Paulo State government, in conjunction with NGO and university entities, created the Permanent Forum Against Violence and Abuse of the Elderly.

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, 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, Porto Alegre, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers (see Section 1.c.). In June, the gay rights group "Nuances" in Porto Alegre accused neo-Nazi groups of displaying posters in the city that encouraged people to "do away with" homosexuals. Federal prosecutors and the Rio Grande do Sul Commission for Human Rights received the complaint, and police identified eight suspects, but no information on arrests was available at year's end.

In August, the trial of military policemen accused of the 2000 beating death of transvestite Henrique de Souza Lima began in Curitiba, Parana.

In December, Mayor Elcio Berti of Bocaiuva do Sul, Parana State, issued a decree prohibiting homosexuals from living in the town. State prosecutors filed charges against the mayor for violation of state and federal antidiscrimination laws and abuse of administrative power. The charges carry a penalty of 2 to 4 years in prison, but the case had not been tried by year's end.

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 in 2002. During the year, two others were sentenced to 19 years, one to 3 years, and another to 2 years for various degrees of participation in the crime. Two of the gang members were absolved of the crime, and another 10 await trial.

The Secretariat of State Security in Rio de Janeiro, in partnership with NGOs, continued to operate a hot line and professional counseling services for victims of crimes against homosexuals, as well as for complaints of discrimination or other crimes based on race, ethnicity, color, religion, or national origin.

*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 sparsely populated states of Acre and Roraima each had only one such office.

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 for victims of 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, according to the Ministry of Justice, many of the women's stations fell far short of standards. There were approximately 307 stations for more than 6,000 municipalities; 40 percent were in Sao Paulo State and 13 percent in Minas Gerais State. There was only one station in the states of Acre, Alagoas, Ceara, and the Federal District of Brasilia. In Rio de Janeiro State, the women's



police stations registered 1,364 cases of sexual violence against women during 2002, a 2.4 percent increase over the 1,332 cases in 2001. According to police officials, the statistics for the year were likely to be similar to 2002.

The sentence 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. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended without a conclusion. The Penal Code allows a convicted rapist to escape punishment if he offers to marry his victim. In May, the World Organization Against Torture reported that only 2 percent of criminal complaints of violence against women led to convictions and that penalties were very light.

Adult prostitution is legal; however, various associated activities, such as operating an establishment of prostitution, are illegal. Women's groups reported that prostitutes encountered discrimination when seeking free medical care.

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 (men are entitled to 1 week). However, the provision against wage discrimination rarely was enforced. The International Labor Organization (ILO) published findings in May that noted that significant differences in wages affected women and blacks, particularly in rural areas.

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 Rio de Janeiro State, an integrated center for support of female victims of violence or discrimination provided psychological and legal assistance to approximately 190 women per month. Demand for space in municipal women's shelters exceeded capacity.

*Children.*—The Government was committed to children's rights and welfare, but millions of children continued to suffer from the poverty afflicting their families, worked to survive, and failed to get an education. Schooling was free and compulsory between the ages of 7 and 14 and was available in all parts of the country, although not every school had space for every child that wanted to attend. Even in schools that had sufficient resources and space, 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. Throughout the country, 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.

Child abuse was widespread. A study conducted during the year by the Federal University of Rio Grande do Sul Center for Studies and Research in Administration found that 87 percent of respondents from the Porto Alegre metropolitan area did not report known child abuse. At the same time, 76 percent of respondents said that they would report abuse if they knew of it. Nearly half of the respondents knew of ongoing cases of child labor.

According to the Reference Center on Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the northern Amazonian region, sexual exploitation of children centered on 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 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 cater to foreigners, the local population sustained it. In 2000, the ILO reported that observers had cited more than 3,000 girls who were subjected to debt servitude and forced into prostitution in Rondonia State.

In August, authorities arrested five city council members, three businessmen, and one city employee in the Sao Paulo town of Porto Ferreira and charged them with rape, corruption of minors, and conspiracy. Prosecutors also investigated their participation in group sexual activities with girls between the ages of 11 and 16. Allegedly, the girls attended barbecues to obtain food, drugs, and payments of approximately \$11 to \$18 (30 to 50 reais) to perform sexual acts. One councilman admitted involvement, but the others denied the charges. In December, one additional councilman was arrested and charged in the case. The city council closed without action a petition to abrogate the political rights of the five council members initially charged in the case; abrogation of political rights would have removed the five from office and prevented their running for political office for 8 years, but is not a criminal action. The trial was underway at year's end.

The city of Rio de Janeiro, in cooperation with NGOs, operated 57 shelters and group homes for street children, but the shelters reportedly were overcrowded and the staff inadequately trained. Drug use, particularly glue sniffing and crack, was increasingly prevalent among street children. NGOs reported that extreme poverty and sexual abuse were the principal reasons children left home.

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.).

Police killings of street children continued. In 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 kidnapping of street children for adoption and sexual abuse.

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 the average life expectancy of men by at least 3 years. Homicide was the leading cause of death for children aged 10 to 14, and only 1.9 percent of their murderers served prison sentences.

*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. The 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. Firms that aggressively pursued these percentages could gain an advantage in competing for government contracts.

There was little progress nationwide on eliminating architectural barriers. A 2001 city of Rio de Janeiro law requires multifamily condominiums to make alterations ensuring access to handicapped residents.

In Rio de Janeiro and Sao Paulo, bus companies were required to provide free passes to persons with disabilities. According to a Rio de Janeiro NGO, there was little progress with regard to access to public transportation for persons with disabilities. Of the 32 subway stations in the city of Rio de Janeiro, only 9 accommodated persons in wheelchairs. In September, the Sao Paulo media reported that a young man was forced to abandon his place at a prestigious university because the university was not equipped to handle wheelchairs.

A large public hospital in Sao Paulo was equipped with appropriate machinery to accept telephone appointment requests from the deaf.

*Indigenous People.*—The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the Government did not secure these rights. The Government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts.

In September, FUNAI reported that the indigenous population was approximately 400,000 persons, belonging to 215 "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.

FUNAI was responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI, who in turn appoints the directors of the 52 regions within the organization.

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 recognized as indigenous territory. At least 407 of the 600 recognized indigenous areas had reached the final registration stage, 24 were in the process of demarcation, and 169 had yet to be processed. Identified indigenous territory constituted 12 percent of the national territory. A congressional committee was established specifically to handle Indian Affairs.

The Constitution provides indigenous persons with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands; the Government administers the lands but is obliged to consider the views of the affected communities regarding development or use of the land, and the communities have 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.

Nonindigenous persons illegally exploited many indigenous lands 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 Indigenous Missionary Council reported that 27 indigenous persons were killed during the year, three times the number killed in all of 2002. The Council alleged that 12 of the killings were motivated by land disputes. FUNAI reported that 23 indigenous persons were killed during the year. Pernambuco was the state with the most killings of indigenous persons. According to FUNAI, land disputes and drug trafficking were the primary reasons for the killings.

The state of Roraima had the largest number of land disputes between indigenous peoples and other state residents. In March, Aldo da Sliva, an indigenous person, was killed in Roraima allegedly because of a land dispute.

In January, an unidentified gunman killed Marcus Veron, a prominent leader of a Guarani-Kaiowa Indian nation in Mato Grosso do Sul. His nephew also was killed and many others were beaten in the same incident. Veron had led approximately 350 Guarani in attempts to reclaim land they claimed was stolen from them by ranchers more than 50 years ago. Authorities indicted 27 persons and arrested 14 in connection with the killing.

In June, in Tenente Portela, Rio Grande do Sul, a court convicted Almiro Borges Souza and Roberto Carlos Moraski of the January killing of Leopoldo Crespo, a member of the Caingangue nation. The court sentenced Souza to 14 years in prison and Moraski to 11 years.

In June, in Faxinalzinho, Rio Grande do Sul, Caingangue leader Adilso Cardoso was stabbed and killed. Cardoso led a movement of indigenous people to demand that 15,000 hectares in the area be declared indigenous territory. Following a search of the area, police found 15 knives and had 1 suspect in custody by year's end.

In Mato Grosso and Mato Grosso do Sul, between August and September, members of the Parecis, Caiabis, and Terenas nations took a total of 22 hostages in separate actions to protest the Government's delay in identifying indigenous lands and expelling ranchers. The members also demanded the right to lease large tracts of indigenous lands to nonindigenous ranchers, an act prohibited by law. Among the hostages were employees of FUNAI and employees of ranches that the members claimed were on land already declared indigenous in 2002.

*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. During the year, the Sao Paulo police ombudsman repeated his 2002 claim 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.

In March, President Lula created a National Secretariat for the Promotion of Racial Equality. Despite a limited budget, the Secretariat was created to defend, among other issues, the racial quota system in public universities and institutions.

A federal government quota system that went into effect in June 2002 requires that at least 20 percent of new federal government hires be Afro-Brazilian, 20 percent women, and 5 percent persons with disabilities. Three state universities instituted race quotas during the year.

During the year, the city of Porto Alegre, Rio Grande do Sul mandated that 12 percent of the positions available in competitive exams for public jobs be reserved for Afro-Brazilians.

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.

A hot line operated by the Rio de Janeiro State government to combat racism received 300 accusations of race-based discrimination during 2002, of which 44 were still being investigated at year's end. Sao Paulo's Instituto Geledes maintained a service called SOS Racismo that, between July 2001 and September 2002, received complaints resulting in 19 criminal actions and 7 civil actions for acts of racism.

Education played a role in perpetuating racial disparities. Approximately 60 percent of Afro-Brazilians in the lowest social class had less than 3 years of education, compared with 37 percent of whites.

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; approximately 180 students were enrolled in the classes paying tuition of approximately \$38 dollars (105 Reais) per month. At least three nongovernmental projects helped Afro-Brazilians pass university entrance exams in Rio de Janeiro.

In August, the press reported that six skinheads were charged with assault, racism, and spreading nazi propaganda in Porto Alegre. Allegedly, the group assaulted a student with baseball bats and yelled obscenities and racial epithets against Jews, blacks, and homosexuals.

Afro-Brazilian women continued to be particularly disadvantaged by discrimination.

#### *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 fire fighters) 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 (MLE), 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 Ministry of Labor, 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. 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. The major union federations (centrals) had close relationships with left-of-center political parties and often coordinated actions with party leaders.

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.). The CPT reported that five rural labor leaders were killed through the first 8 months of the year.

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 20 activists and rural workers were killed in Para State in 2002, including MST leader Ivo Lindo do Carmo and union official Bartolomeu Morais de Silva. During the first 8 months of the year, 13 more activists were killed, including union leader Osvaldo Pereira Santos. CPT leaders in Para State continued to claim that gunmen hired by estate owners committed most of these killings. 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 2002, a local judge in Rio Maria, Para State, ordered that a trial of two men (including the former mayor) charged with the 1985 killing of Joao Canuto, the first president of the local rural workers' union, should proceed. The trial took place in May, and the men were convicted of ordering the killing and sentenced to 20 years' imprisonment.

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 resorted to a lengthy court process for relief. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. It was estimated that more than 2 million complaints were tied up 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, more than 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. When ultimately resolved, most parties agreed that cases were decided fairly and on their merits.

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 2002, 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 allows for mediation of wage settlements with consent of the parties involved and provides greater latitude for collective bargaining. The Ministry of Labor and the federal Labor Prosecutor's Office (MPT) provided free mediation services, and unions and employers also may choose a private mediator from a registry kept by the Ministry of Labor. According to the MLE, in the first 10 months of 2002, more than 8,000 collective bargaining agreements used mediation services, compared with more than 10,000 in all of 2001.

The Constitution provides workers with the right to strike, except for the military, police, and fire fighters. 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, and to protest reform of their pension system. 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 8 years, resulting in a significant erosion of real earnings. Public sector unions that struck during the year included social security workers, professors, judicial workers, and customs agents.

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 possibly involved fraud or coercion.

The CPT estimated that approximately 25,000 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. Workers were vulnerable to forced labor schemes largely due to existing conditions of dire poverty, low levels of education, and a lack of awareness about their rights. 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 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 33 arrests and 3 convictions in 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 was 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 was lodged with the Organization of American States 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.

The Executive Group to Combat Forced Labor coordinated the Government’s efforts to eliminate forced labor; its 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.

During the year, the mobile group located 4,315 forced laborers, nearly double the figure from the previous year. 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 2002, 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. The MPT forwarded the case to the Attorney General and also filed a civil suit against the politician for damages equaling approximately \$7,143 (20,000 reais) per worker. The case was still pending resolution at year’s end.

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 complaints reaching the mobile unit, reported that forced labor may actually have grown during the year. In Para State, where the most cases were reported, the CPT received complaints of 4,227 cases of forced labor on 116 ranches, more than 3 times the total for all of 2002. The mobile unit reportedly was unable to keep up with the increase in 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 Ministry of Labor, 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 \$71 (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 2002, 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 contributed to increased discussion of forced labor through a number of seminars and workshops. It also contributed to improvements in data gathering.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law restricts work that may be performed by children; however, despite government efforts, child labor continued to be a widespread problem. The minimum working age is 16 years, 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 parental permission 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 2.22 million in 2002. In addition, the number of working children in this age group decreased from 12 percent 10 years ago to 6.5 percent in 2002. 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 in the country were employed. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

The Ministry of Labor 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 MLE was responsible for inspecting worksites to enforce child labor laws. Special Groups for the Eradication of Child Labor guided regional efforts to enforce child labor laws, principally by gathering data and developing 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. During 2002, approximately 3,250 inspectors conducted more than 25,000 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 \$143 (400 reais) per violation. As a result, few employers were actually fined for employing children.



Ministry of Labor inspectors often worked closely with labor prosecutors from the MPT, who have broader powers and are able to impose larger fines. The MPT—an independent government agency responsible for prosecuting labor infractions—has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, 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 900,000 children in all 26 states and the federal capital during the year, focusing on removing children from work activities considered to be among the most hazardous by the Government. Although the program concentrated on rural areas, it also grew 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 approximately \$5 (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 10 million children in more than 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 September 2002, 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, the Minister of Labor created the National Commission to Eradicate Child Labor. The commission developed a comprehensive national child labor plan to strengthen child labor eradication efforts, emphasizing partnerships with states and municipalities.

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 more than 40 institutional members from the 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 initiatives through its awards programs for organizations, journalists, and mayors. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to help reduce instances of child labor in the footwear industry. 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 services (see Section 5). UNICEF supported more than 200 programs to improve the lives of children and, since 1999, helped to remove more than 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 approximately \$71 to \$85 (from 200 to 240 reais) a month, 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 approximately one-fifth of the salary necessary to support a family of four in the Sao Paulo metropolitan area. The Brazilian Institute of Geography and Statistics 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 time and a half pay; 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.

Unsafe working conditions were prevalent throughout the country. During 2002, workplace accidents rose from nearly 340,000, in 2001, to 387,000. The number of workplace deaths due to accidents also rose from 2,753 in 2001 to 2,898 in 2002. 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 required 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.

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 requires 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 the authorities grant prior approval. However, 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 the 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 persons had been convicted for related crimes. 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 hampering prosecutors' efforts to build strong cases. Federal prosecutors and NGOs also reported that corruption among state police often impeded the apprehension of traffickers.

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 arresting 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, resulting in only 2 convictions. Internal traf-

ficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Although comprehensive government 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.

CECRIA's June 2002 report on trafficking in persons for commercial sexual exploitation—drawing on police, media, and other sources—identified more than 130 sex trafficking routes, including 109 domestic routes. 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 report also called attention to sex trafficking in 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).

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 domestics. Upon arrival, the victims' passports often were 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 October, the state of Sao Paulo sponsored an international conference on Trafficking in Women to focus attention on the problem. The conference drew attendees from throughout the country, as well as the United States, Mexico, Chile, and numerous countries in Europe. The conference provided an opportunity for government and NGO representatives to exchange ideas on additional efforts to combat this problem.

In addition to sex trafficking, the internal trafficking of workers into forced labor schemes was a problem. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Union leaders claimed that nearly all of the 15,000 persons 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 database for use in recording and combating trafficking.

The Government coordinated several anti-trafficking 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).

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## 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 169 of 301 seats in Parliament. On December 12, Paul Martin replaced Chretien as Prime Minister. The judiciary is independent.

Federal, provincial, and municipal police forces have responsibility for law enforcement and maintenance of order. Elected civilian officials maintained effective control of these security forces. There were no reports that security forces committed human rights abuses.

The country has a highly developed, market-based economy and a population of approximately 31.6 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 included 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 problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings.

In June, six Montreal police officers arrested and allegedly beat a man fleeing a crime scene. He died approximately 1 hour after the incident. Although *Mouvement Action Justice*, a police watchdog group, called for a public inquiry into the man's arrest and death, no action was taken.

In December 2002, a Royal Canadian Mounted Police (RCMP) officer convicted in a 2001 off-duty killing was sentenced to life in prison.

In November, four Toronto policemen were found not guilty of manslaughter for the death of a suspect whom they allegedly beat while taking him into custody in 2000.

*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, Saskatoon police admitted culpability in the death of an aboriginal woman who froze to death in 1976. In September, an inquiry began into the death of an aboriginal teenager who was found frozen on the outskirts of Saskatoon in 1990. The public hearings were scheduled to conclude at the end of March 2004.

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 and other mechanisms established by the Government, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, addressed such complaints. During the year, the Ombudsman received eight sexual assault complaints, compared with seven in 2002.

A May Human Rights Watch report alleged that, in an anti-narcotics operation in Vancouver, police officers violated the due process rights of injection drug users through excessive use of force, illegal search and seizure, and harassment through petty offenses. In June, the mayor of Vancouver responded by issuing a 29-page rebuttal to the report.

In November, six Vancouver police officers plead guilty to common assault after an incident in January. At year's end, the officers were in sentencing hearings and also faced an internal disciplinary hearing.

Prison conditions generally met international standards; however, there were several riots at the Kent maximum security facility in British Columbia, one of which resulted in the death of an inmate in June. There were also reports of deprivation of food and water being used to control inmates at the Kent facility.

Prisons, both at the federal and local level, generally held men and women separately. In addition, juveniles were not incarcerated with adults, and pre-trial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, or exile, and the Government generally observed these prohibitions in practice.

The RCMP, an agency of the Ministry of the Solicitor General, is a national, federal, provincial, and municipal policing body. It provides complete federal policing service throughout the country and also provides policing services under contract to the 3 territories, 8 provinces (Quebec and Ontario have their own provincial police), and approximately 198 municipalities.

A Judge may issue a warrant after being satisfied that a criminal offense may have been committed. A person arrested for a criminal offense has the right to remain silent, to be informed as to the reason for the arrest, and to engage a lawyer. Bail was generally available.

The law prohibits forced exile.

*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, and the Government generally respected these prohibitions in practice.

A 2001 antiterrorism act that expanded police investigative and wiretapping powers has received several court challenges, including a case before the Supreme Court that involved a witness forced to testify at a secret investigative hearing, who challenged the provision that forces a person to give evidence in an anti-terrorism case.

*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.

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 and, in June, ordered the shut-down of an anti-Semitic website and awarded \$30,000 (\$Cdn 41,800) to a man who was the target of the website.

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 is constitutionally protected in the country's original four provinces; however, a 2001 Ontario Province law, to be phased-in over 5 years, expands the credit to parents of children attending private schools.

There were a number of reports of harassment of religious minorities.

The League for Human Rights of B'nai Brith estimated that 450 incidents of anti-Semitism were reported during the year.

Some fundamentalist Christian groups' child disciplinary practices came under close scrutiny by the Government.

In September, a private school in Quebec expelled a 16-year-old Muslim student after she refused to remove her hijab. The Charter of Rights and Freedoms prohibits banning the hijab in public schools but is unclear regarding private schools. The Quebec Human Rights Commission launched an investigation into the matter.

The number of reported incidents of harassment of Muslims increased. 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 2003 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 refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extending asylum. The country offers resettlement and, as of June 1, had approved 17,548 refugees for resettlement. There is no appeal process for applicants who are refused resettlement, and several non-governmental organizations (NGOs) urged the Government to establish an appeal division to address such cases.

In 2002, 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. 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. A safe country of transit agreement to return aliens previously resident in the United States to that country for adjudication of asylum was signed in 2002; the agreement was due to enter into force during the year but had not been implemented pending the issuance of regulations by the United States. Human rights and immigrant groups criticized the agreement.

### *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, thereby earning status and rights as the official Opposition in Parliament. Former Liberal Party leader Jean Chretien stepped down as Prime Minister on December 12, and Paul Martin took over as the country's new Prime Minister.

In April, the victory of federalist Quebec Liberals ended 9 years of rule by the Parti Quebecois, which advocated Quebec's withdrawal from the Confederation.

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; 36 of 105 senators were women, and 4 were of aboriginal origin. Women held 10 seats in the 36-person Cabinet. The Governor General and three of the nine members of the Supreme Court, including the Chief Justice, were women.

### *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 economic costs of violence against women were

estimated at \$3.0 billion (Cdn \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades, and there were 524 shelters for abused women across the country in 2002.

A total of 27,100 cases of sexual assault were reported to police in 2002, a per capita rate virtually unchanged over the past 5 years. 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 resolve complaints (see Section 1.c.).

Women were 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.

*Children.*—The Government demonstrated 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 was 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 that operated the homes sought to close, through class action settlements, thousands of abuse cases filed by former residents. Approximately 1,000 cases have been settled; however, an estimated 12,000 remained outstanding.

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; however, disability-related complaints filed with the Canadian Human Rights Commission rose by 85 percent in 2002. 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 totalled 6.5 percent of the population. The Government instituted programs to help persons with disabilities 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 disabilities, unless it constitutes an undue hardship, and mandates access to buildings for persons with disabilities.

*Indigenous People.*—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). A September Supreme Court decision gave the Metis the same hunting rights as other aboriginal groups and marked the first time that Metis rights had been constitutionally defined. Aboriginals make up approximately 2.8 percent of the national population and higher percentages in the country's three territories: Yukon, 20 percent; Northwest Territories, 62 percent; and Nunavut, 84 percent. 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 ab-

original groups in the eastern part of the country form the basis for the 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 Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

According to Indian and Northern Affairs Canada, in 2002–03, the Government budgeted \$5.66 billion (Cdn \$7.9 billion) for programs to provide aboriginal persons access to basic services (education, housing, water, sewage, health, and social) comparable to those provided to other citizens through provincial, municipal, and territorial governments.

The Government settled two massive land claims with aboriginal groups: In August, following 25 years of negotiations, the Labrador Inuit Land Claims Agreement was signed, which provided for a \$71.7 million (Cdn \$100 million) payment to the Inuit as well as the transfer to Inuit control of approximately 6,100 square miles in Labrador. A second agreement, the Tlicho agreement, was also signed in August. This agreement will transfer approximately 24,000 square miles of land in the Northwest Territories to the Tlicho government. This land has significant diamond deposits, and the Tlicho government will have full control over all resources.

During fiscal year 2002–03, the Government spent \$460 million (Cdn \$642 million) on claim settlements. First Nation leaders, however, stated that at the current rate of claim settlement, it will take the Government 150 years to settle all outstanding aboriginal claims. The Government also continued self-government negotiations with over 350 First Nations. In addition, professional development and fiscal accountability projects further supported indigenous self-governance. In November, the House of Commons passed an aboriginals' land claims bill that was meant to expedite the settlement of more than 700 backlogged claims; however, many aboriginal groups opposed the bill saying it granted too much power to the central Government.

The Government continued working to resolve a variety of other issues, including fishing rights in the Atlantic region. Disputes over aboriginal fishing rights in the Atlantic region continued after a 1999 Supreme Court ruling 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 Government negotiated interim fishing agreements with all 34 aboriginal communities in the Atlantic region, and negotiations on longer-term agreements were pending. In August, New Brunswick's highest court ruled that aboriginal groups have the right to harvest and sell trees from Crown land. The right of aboriginal groups in Nova Scotia to harvest Crown land timber remained under litigation in the courts.

A case brought by the Gitanyow, an indigenous group located near the Nisga'a people in northwestern British Columbia, who contended that a 2000 treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a, remained pending in the courts at year's end. The Gitanyow, however, were negotiating their own treaty settlement and signed an agreement not to pursue litigation while negotiations were taking place.

*National/Racial/Ethnic Minorities.*—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 lived and worked in the language of the majority. The provinces may grant French or English the status of an official language. 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 the country. 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 the country or in cases in which the father or the mother did most of his or her studies in English in the country. During the year,



the Quebec National Assembly amended the Charter of the French Language to limit access to English language schooling by no longer recognizing 1 year of private English language schooling in Quebec as fulfilling the eligibility criteria to attend a publicly funded English school in Quebec.

Provinces other than Quebec often lacked adequate French-language schooling and health services, which was of concern to local francophones, although French-language schools and French immersion programs were reported to be thriving in all three prairie provinces.

In December, Nova Scotia's Human Rights Commission ruled that the Halifax Regional Police Service discriminated against a man because of his race when they towed his vehicle after a 1998 traffic stop. The man was awarded \$10,755 (Cdn \$15,000).

#### *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, and they exercised this right. 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.

The law prohibits anti-union 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. The Quebec cable distributor Vidiotron came to agreement with 2,200 of its workers in May after an almost year-long strike, and 3,300 steelworkers for Inco Ltd. returned to work in August after a 3-month 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, persons smuggled into the country were sometimes indentured to their smugglers in order to pay down their debts, and 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 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 \$4.23 to \$5.74 (Cdn \$5.90 to Cdn \$8.00) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage did not provide a decent standard of living for a worker and family, and 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 law outlaws trafficking in persons; however, trafficking remained a problem. The law establishes criminal penalties of up to life in prison and fines of up to \$717,000 (Cdn \$1 million) for convicted traffickers; however, no prosecutions have yet resulted from the legislation.

The country was 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 reliable data on the extent of the problem.

Vancouver and Toronto served as hubs for organized crime groups that traffic in persons, including trafficking for prostitution. East Asian crime groups targeted the country, 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 the country illegally over the last decade. These persons came primarily from East Asia (particularly China and Korea, but also Malaysia), Central and South Asia, Eastern Europe, Russia, Latin America and the Caribbean (including Mexico, Honduras, and Haiti), and South Africa. Many of these illegal immigrants paid large sums to be smuggled to the country, were indentured to their traffickers upon arrival, 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 paid and that they did not inform the police. Asian women and girls who were smuggled into the country often were forced into prostitution. Traffickers used intimidation and violence, as well as the illegal immigrants' inability to speak English, to keep victims from running away or informing the police.

Preliminary hearings were scheduled for February 2004 for 11 defendants charged in December 2002 of being part of a prostitution ring that involved girls as young as 14.

Victims may apply for permanent residence under the "humanitarian and compassionate" provisions of the Immigration Act; however, some victims of trafficking were arrested and deported. In prostitution cases, often the prostitute instead of the customer was arrested. A prostitute in the country illegally may face deportation, particularly after committing a crime. Local authorities often lacked awareness about the victims of trafficking, which was compounded by many victims' fear of telling authorities about the crime committed against them.

The Government reconvened an Interdepartmental Working Group on Trafficking in Women, which held information and training sessions for government officials to increase awareness about trafficking. In addition, the Government supported efforts by NGOs and community organizations to raise awareness of trafficking and funded academic studies of the problem.

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## 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. Lagos' governing coalition known as the Concertacion held a 63–57 majority in the lower house. The Senate was divided 24–24 between pro-Concertacion legislators and the opposition. The judiciary was independent.

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) and the civilian Investigations Police are under operational control of the Ministry of Interior. While civilian authorities maintained effective control of the security forces, some members of security forces 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. According to the 2002 census, the population was 15.1 million. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Economic growth for the year was 3.2 percent with inflation of 1.1 percent. Unemployment averaged 8.5 percent during the year. The percentage of the population living below the poverty line was 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. Anti-defamation 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. Child labor was a problem in the informal economy.

During the year, the Government, primarily the judiciary, continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. Military authorities continued to be unwilling or unable to provide a full accounting for the fate of many of the 3,000 persons who disappeared or were killed. As of mid-June, there were 179 former officials (mostly military but some civilians) charged and under investigation for human rights violations and another 14 that had already been sentenced. In July 2002, the Supreme Court ruled that former President Pinochet was mentally unfit to stand trial, and ended all legal proceedings against him in the case known as the "Caravan of Death." Subsequent rulings in other cases during the year indicated that the same criteria would apply 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 or Unlawful Deprivation of Life.*—There were no reports of the 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.

Although the case remained open, there continued to be no progress in the investigation of the death of Carlos Millaman, detained in 2000 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 subsequently transferred to the El Salvador hospital where he died later that day.

On May 28, after 14 years of investigation by various magistrates, Judge Hugo Dolmestch indicted three members of the Army for the murder of leftist leader Jecar Nehgme, detained in 1989. His investigation continued into the case involving the 1986 detention and death of journalist Jose Carrasco and three other persons.

Throughout the year, the Supreme Court reaffirmed its position 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 had been clarified and the guilty party identified. 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).

The case of Spanish citizen Carmelo Soria, killed in Santiago in 1976, remained under investigation by a judge in the Sixth Criminal Court of Santiago. Four retired generals and a civilian accused of the 1974 car bombing in Buenos Aires of former Chilean Army commander Carlos Prats were indicted and were being investigated by Judge Alejandro Solis at year's end. On December 10, the authorities arrested Rafael Gonzales, a retired security officer, in the first indictment in the death of Charles Horman, a U.S. citizen killed after being detained by security forces following the 1973 coup d'etat. The case remained under investigation at year's end.

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

In 2002, the Ministry of Justice authorized 20 judges to dedicate their time exclusively to historic cases of disappearances and another 51 judges to give preference to the investigation of such cases. Largely as a result of their work, in the first half of the year, indictments were brought in 38 cases, according to the foundation maintaining the archives of the Catholic Church's former Vicariate of Solidarity. Indictments were brought against 120 retired members of the armed forces and, for the first time, some civilians.

There were no further developments in the investigations of military-era detentions and disappearances of persons at Colonia Dignidad (renamed "Villa Baviera"),

a secretive German-speaking settlement 240 miles south of Santiago during the year. Paul Schaefer, founder of the 34,000-acre enclave, remained a fugitive, wanted on charges including the 1994 kidnapping and disappearance of Alvaro Vallejos, at year's end. In 2000, the authorities arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke, but first he must stand trial in connection with Vallejos' disappearance and two other charges that remained under investigation. Muecke remained in custody at year's end.

In 1985, Boris Weisfeiler disappeared near Colonia Dignidad under circumstances that have yet to be clarified. The case was reopened in 2000 and 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. In January 2001, the Armed Forces stated that, of the only 200 cases of disappeared persons for which they claimed to be able to account for, 151 were thrown into the sea, a statement that subsequently proved to be inaccurate as some of the remains of those reportedly thrown into the sea were found buried on land. 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 received pensions, educational benefits, and other assistance. Since 1992, the program distributed approximately \$140 million (90 billion pesos) in pensions alone.

*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, nevertheless, still received reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards. Few of these reports led to hearings in court and even fewer led to convictions. The CODEPU was unaware of any case in which a member of the Investigative Police had 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. In November 2002, a Mapuche 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 Sections 2.b. and 5).

Prison conditions were generally poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. In March 2002, 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. The Ministry of Justice announced a \$5 million (3 billion pesos) program in all prisons to develop contingency planning for emergencies and to prevent such incidents from occurring in the future.

The Government recognized that overcrowding in prisons continued to be a problem. According to the Ministry of Justice, in 2001 there were 34,335 prisoners in prisons designed to lodge 23,025 inmates, a situation that remained unchanged in subsequent years. In 2001, the Ministry of Justice opened bids on 3 new prisons, to be completed in December 2004 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 construction program, the growing prison population is projected to continue to exceed the space available. Food met minimal nutritional needs, and prisoners were able to supplement the diet by buying food. Those with sufficient funds often can “rent” space in a better wing of the prison.

Although most analysts stated that guards generally behaved responsibly and did not mistreat prisoners, prisoners have complained to the CODEPU about beatings, and the courts received numerous complaints of mistreatment of prisoners. Prison guards were 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 March, an in-

vestigation was begun into the nature and origin of reportedly "self-inflicted" wounds suffered by prisoners in the Alfa unit. The wounds occurred during protests over the prisoners' inability to receive time off for good behavior. The prisoners claimed that the prison lacked the schools and workshops necessary for them to meet the law's requirements. In 2002, an investigation by the Supreme Court found evidence of physical mistreatment of the prisoners.

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, the CODEPU lawyers visited detainees during the interrogation and represented some persons suspected of terrorist acts in court. The CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental deficiencies who allegedly failed to receive adequate medical attention.

Pretrial detainees generally were not held with convicted prisoners. Women generally were housed in separate facilities, which tended to be less crowded and with comparatively better conditions than men's prisons.

By law, juvenile offenders (those under the age of 18) were segregated from adult prisoners. In September 2002, 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 completed construction of two juvenile detention centers started in 2001, and continued the construction of two additional centers.

The Government permits prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions. Only public official expressly authorized by law can arrest or detain citizens. 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.

The Carabineros, who number approximately 27,000 men and women, have primary responsibility for public order, safety, traffic control, and border security. The civilian Investigations Police, made up of approximately 3,600 detectives, are responsible for criminal investigations and immigration control. The Investigations Police, while under the operational jurisdiction of the Ministry of Interior, take their guidance from the prosecutor or judge responsible in a criminal investigation. The police force had an extremely low incidence of corruption. Police, prison guards, and officials take courses in human rights, which are part of the core curriculum in the police academies.

Provisional liberty must be granted unless a judge decides that detention is necessary to 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.

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 the investigating judge's verdict or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

The law requires police to inform detainees 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 an independent judiciary, and the Government generally respected this provision in practice.

The judiciary has civil, criminal, juvenile, and labor courts of first instance throughout the country but mostly concentrated in and around Santiago. There are 16 courts of appeal with at least 1 in every region. The Santiago and Valparaiso courts of appeal have several chambers that tend to specialize in one or another area of the law. The Supreme Court, with 25 members, is the last instance of appeal. A constitutional tribunal decides whether new laws or treaties present conflicts with the Constitution (but does not look at specific court cases). There is also a Court Martial and Naval Court Martial.

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.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial reform law created the post of Attorney General, with a 10-year term, and a supporting administrative infrastructure. An office of Public Defender also was established to provide professional legal counsel to anyone who should seek such assistance. The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges the narrower function of weighing the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in 2000, with oral trials in 2 of the 13 political regions. At year's end, only the Santiago greater metropolitan region had yet to implement the reform. Initial reports indicated that the reform resulted in a more transparent process, greater respect for defendants' rights, and speedier trials.

In the Santiago metropolitan region, 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 in the Santiago region, have not always received effective legal representation. They were usually represented by someone from the Government's legal assistance corporation, who was sometimes a law student finishing studies under the supervision of one of the corporation's lawyers. On occasion, the court may appoint a lawyer.

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 were 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 were also brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. 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.

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.

*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 tapping, 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.

The press maintained its independence, criticized the Government, and covered issues sensitive to the military, including human rights cases.

Human rights groups and press associations 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 was seeking to revoke others. Military courts still 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 a new press law, the Penal Code still prohibits insulting state institutions such as the presidency, as well as legislative and judicial bodies. In April, a Santiago appeals court absolved a talk show participant who was imprisoned briefly and released on bail after the president of the Supreme Court brought charges against him in December 2002. The participant had commented on the case of a woman who spent 3 years in prison for a crime she did not commit and accused the justice system of being immoral, cowardly, and corrupt. The Government continued to support legislation in the Congress that would remove provisions from the criminal code protecting government officials.

The 2001 case of the president of the State Defense Council's private libel charges against El Mercurio newspaper for criticism of her performance of official duties and the suggestion that she resign, was still pending at year's end.

A 1995 modification of the penal code prohibits the surreptitious taping or recording of private conversations. During the year, a judge applied this law for the first time, charging a television network with violating a judge's privacy by using a hidden camera. The court had yet to determine guilt; however, it detained the entire news department's chain of command to the level of the station manager, who ultimately lost his job as a result of the story.

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 in 2002 when La Nacion reported on the alleged withholding of information by the Air Force on human rights violations under the military regime. Also, that same year, several leading private newspapers reported stories on alleged bribery within Congress and the Ministry of Transportation and Public Works.

The broadcast media generally were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It received no government subsidy and was self-financing through commercial advertising. It was editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflected various political viewpoints, and the board encouraged the expression of varied opinions over the network.

The National Television Council (CNT), supported by government funding, is responsible for 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, have obscene language, or have 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 difficult. The CNT occasionally levied fines. Debate continued over the CNT's role, especially after it levied fines in December on one television channel for broadcasting a compromising tape of a judge taken with a hidden camera, and on another channel for filming the arrest of an individual in the bedroom of his home.

In January, a new film classification system began that ended film censorship. The change was symbolically highlighted by the commercial exhibition of the previously banned film "The Last Temptation of Christ."

In December 2002, a Santiago court ordered police to seize immediately all existing copies of journalist Cristobal Pena's book "Cecilia, La Vida en Llamas," an unauthorized biography of singer Cecilia Pantoja. The removal order came after the singer filed a libel suit against the author. The author's appeal was successful, and the book was available for sale again a few months later.

The courts may prohibit media coverage of investigations in progress but did so rarely. The press used foreign Internet web sites to publish articles when gag orders were issued.

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 peacefully, and the Government generally respected this right in practice; however, police occasionally used force against demonstrators.

In July, Carabineros entered the University of the Frontier and beat two students in the process of detaining them. In August, 312 persons were detained during a general strike called by the main labor federation. Carabineros responded to acts of violence by protesters, injuring 72 civilians. Fifteen police officers were also injured.

September 11 marked the 30th anniversary of the coup d'etat that overthrew President Salvador Allende. Although commemorative events during the day took place peacefully, disturbances during the evening in the poorer neighborhoods led to 394 people being detained. There was no tally of civilian casualties other than one who was seriously injured by a bullet. Two police also suffered serious bullet wounds, and 22 others required medical attention.

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.

In 2000, a law went into effect that bestows upon all faiths the same legal status previously enjoyed only by the Catholic Church and removes the ability of the Government to dissolve religious entities by decree.

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 continued to rise. Still, some leaders of the country's Protestant churches (which account for just over 15 percent of the population) continued to note instances of discrimination. 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.

Schools were required to offer religious education twice a week through middle school; however, enrollment in religious classes was optional. The creed requested by parents is supposed to be taught, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith; however, more schools offered non-Catholic alternatives for religious education. The two most prestigious public schools in Santiago offered an evangelical alternative.

For a more detailed discussion, see the 2003 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 to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised 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 2000, voters elected Ricardo Lagos, of the Socialist Party, as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion 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 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 Concertacion 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 2002.

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should remain 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 legislation requiring super-majorities, and the provision for nonelected senators. At year's end, Congress had not passed legislation in response to constitutional reform proposals.

In January, Army Commander in Chief Juan Emilio Cheyre disassociated himself from the Pinochet regime and put an end to any future speculation that the Army sought a role in politics. Cheyre stated that the Army belonged to all citizens and "never again" would it lend itself to political purposes.

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 3 women among the 16 cabinet ministers.

The 692,000 people who declared themselves to be of indigenous origin in the 2002 census have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledged indigenous descent. There was one minister in the cabinet of indigenous origin.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Several human rights nongovernmental organizations (NGOs) 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 FASIC continued to be active on a range of human rights issues and tracked the status of many human rights cases, especially those involving the military. The CODEPU continued to operate at greatly reduced levels of activity during the year due to a lack of resources. The Government cooperated with domestic NGOs' efforts to investigate accusations of human rights violations. Many international NGOs also followed human rights issues closely.

#### *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. 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, continued to conduct courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. A study done in 2001 by the University of Chile indicated that more than half the women in the country had experienced violence in their relationship with their partner. The study calculated 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 in 1994, the number of cases presented in the courts has increased from 1,419 in 1994 to 73,559 in 1999.

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 Corporation for Women, that provided counseling.

In 2002, a 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, and 1,250 in 2000. Experts believed that a majority of rape cases went unreported.

Adult prostitution is not expressly illegal. Police habitually detained prostitutes (usually as a result of complaints by residents of the neighborhood) and accused 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 generally was 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. If the couple has children, provisions are made for child 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 men 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 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, including a prohibition against dismissal; these also apply to domestic workers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them, although La Morada has received reports that the practice continued in some companies.

*Children.*—The Government is committed to children's rights and welfare. Education is compulsory and free from first through twelfth 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 of child abuse, 314 of rape, 292 of 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 La Morada Corporation for Women released in 1999 estimated that there were 20,000 cases of sexual abuse of children every year.

Child prostitution was a problem (see Section 6.f.).

Police and social workers attempted 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 2002 census found that 354,053 citizens claimed to have some form of disability. Persons with disabilities still suffered some forms of legal discrimination. Although the law requires that public buildings provide access for persons with disabilities, by year's end, 74 percent of the buildings in the country failed to meet that requirement (79 percent in the Santiago metropolitan area). 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 People.*—According to the 2002 census, people who declared themselves to be of indigenous origin made up 4.6 percent of the population, approximately 692,000. The Mapuches, from the south, account for approximately 85 percent of this number. There are also small Aymara, Atacamenos, Rapa Nui, and Kawaskhar populations in other parts of the country. The 2002 total represented a drop of 306,000 (30.7 percent) from the 1992 census figures. Santiago saw a par-

ticularly sharp decrease in its official number of indigenous residents. Indigenous leaders disputed these figures, arguing that the numbers were underreported.

The law 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 2000, the Lagos administration appointed the Commission for Truth and New Treatment, which proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, the commission 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. In October, the commission issued a four-volume report that, among many recommendations, suggested explicit recognition of indigenous peoples in the Constitution and mandatory representation in the Congress and local governing bodies.

Over 40 land occupations and an equal number of other isolated acts of violence by Mapuche Indian groups occurred throughout the year (see Section 1.c.). The authorities tried many of those charged with the attacks under anti-terrorist law.

On April 18, police reportedly responded with tear gas and rubber bullets to an incursion onto private timberland by approximately 15 Mapuches. Eight were detained and several wounded. On June 10, police arrested 29 Mapuche students, and injured several of them, as police dislodged them from a building belonging to CONADI. Water cannons and rubber bullets were reportedly used. The students were seeking the removal of the Deputy Director of CONADI. In August, a group of Mapuches occupied the offices of the provincial governor to protest the retrial ordered by the Supreme Court of two indigenous leaders accused of setting fire to a farm owned by a member of the Constitutional Tribunal. On October 21, seven Mapuches were arrested and five injured when they were dislodged from a farm.

In November 2002, police shot and killed a Mapuche activist in a confrontation. On September 2, a Carabinero major was charged with unnecessary violence resulting in death. The investigation was still underway at year's end.

Five Mapuche families that had objected to exchanging traditional lands for other property as part of the Ralco hydroelectric project agreed to terms of a settlement allowing the project to go forward. Previously, 68 families had accepted economic inducements to move to other land.

*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 elective office. Registering a union was a simple process.

In 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, permitted unions to be structured along geographic as well as functional lines, and lowered the minimum number of workers necessary to form a union.

Amendments to the Labor Code resulting from the 2001 reform placed additional limits on the causes 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 where alleged illegal anti-union activity is supported in a report by a labor inspector.

A Labor Directorate study showed 739 complaints presented to the Labor Directorate in 2002 compared to 457 in 2001. Complaints included failure to deduct union dues, discrimination, and impeding union organizing. The Directorate attributed the increase to greater confidence by workers under the new Labor Code that they would not face reprisals from their employers. The Labor Directorate took 280 cases to court in 2002 while dismissing 349 complaints as unfounded.

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 penalty 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, although the trend of strikes carried out as a percentage of those authorized appears to be on the decline. In 2002, 282 strikes were authorized and 87 took place, as compared to 205 authorized strikes and 89 actual strikes in 2000. This can in part be attributed to more successful mediation efforts. From February to September 2002, there were 191 requests for mediation, of which 70 percent were successfully mediated, thereby avoiding a strike.

On August 14, the CUT called for a 1-day general strike, asking for improved wages and labor conditions. This was the country's first national strike since the return to democracy in 1990.

Union officials and the Ministry of Labor indicated that the modifications of the Labor Code made union organizing easier, and preliminary data on new union formation after December 2001 appeared to confirm those expectations. An analysis by the Labor Directorate in 2002 showed 1,042 new unions were formed with 36,992 new members, compared to 518 and 20,951 the year before. Many of the new unions were in smaller companies that had never had a union. Also, of 1,577 labor agreements signed between companies and workers in 2002, 80 percent were the result of collective bargaining; the others were company imposed agreements.

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 began 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 there were no reports that such practices occurred. 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 15 and 18 to work with the express permission of their parents or guardians, they must attend school, and 15-year-olds 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 worked. A 2002 International Labor Organization study put the number of working children aged 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 minimum wage is set by law, and is subject to adjustment 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 \$175 (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 6 days and 48 hours. It is scheduled to be reduced to 45 hours on January 1, 2005. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. 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. There were a few reports that small numbers of persons may have been trafficked to or from the country.

Child prostitution was a problem. The Constitution and the Labor Code prohibit forced labor, and the prostitution of children and corruption of minors are prohibited under the Penal Code. However, the law does not prohibit prostitution, and the age of consent for sexual relations is 14 years (raised by Congress in December from 12 years).

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. A study conducted by SENAME and Arcis University in the first half of the year put the number at 3,719, but many of those familiar with the problem believe that number to be too low. 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. 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 2002, voters elected independent candidate Alvaro Uribe president and selected a bicameral legislature with a mix of Liberal, Conservative, and independent members. On October 25, voters narrowly rejected a major economic and political reform referendum, and on October 26 gave center-left candidates a number of victories in local and regional elections. The referendum and elections were generally free and fair, in spite of concerted efforts by terrorist organizations such as the United Self-Defense Forces of Colombia (AUC) and Revolutionary Armed Forces of Colombia (FARC) to manipulate or disrupt them. Internal armed conflict continued between the Government and terrorist groups, particularly the FARC, the National Liberation Army (ELN), and the AUC. The conflict caused the deaths of between 3,000 and 4,000 civilians during the year, including combat casualties, political murders, and forced disappearances. The civilian judiciary is largely independent of the executive and legislative branches; however, it is overburdened, inefficient, and subject to intimidation and corruption by terrorist groups and common criminals.

The civilian-led Ministry of Defense (MOD) is responsible for internal and external security and oversees both the police and the armed forces, including the army, air force, and navy. The National Police shared law enforcement duties with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The police are responsible for maintaining internal order and security in urban areas, and reestablished a permanent presence in all but 18 of the country's 1,098 municipalities by the end of the year. The armed forces are responsible for maintaining order and security in rural areas and support the police in urban areas when called upon. Although civilian authorities generally maintained effective control of the security forces, there were instances in which members of the security forces acted contrary to the dictates of civilian and military authorities. Over the years, police and military forces have taken steps to improve their human rights record; however, some members of the security forces continued to commit serious violations of human rights.

The country's population is approximately 44 million. Despite decades of violence precipitated by internal armed conflict and the drug trade, the market-based economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the country's principal legal exports, although drug trafficking has created a large illicit economy. Economic growth for the year was estimated at 2.5 percent, while inflation measured 6.5 percent. Income distribution was highly skewed, with 55 percent of the population living in poverty. Unemployment fell to 14.5 percent; however, per capita GDP also fell to \$1,704 (4.7 million pesos).

The Government's human rights record remained poor; however, there were significant improvements in some areas. An increasingly small percentage of total human rights abuses reported were attributed to security forces; however, some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with the AUC terrorist group that committed serious abuses. Allegations of forced disappearances and kidnappings remained. Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions and prolonged pretrial detention remained a fundamental problem. 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.

The authorities sometimes infringed on citizens' privacy rights. A number of journalists were killed, and journalists continued to work in an atmosphere of threats and intimidation, in some instances from local officials in alliance with terrorist groups, but primarily from terrorist groups. Journalists practiced self-censorship to avoid reprisals from terrorist organizations. There were some restrictions on freedom of movement, generally because of security concerns, and confined to narrowly defined geographic areas.

Violence and instability displaced approximately 100,000 civilians from their homes in the first half of the year. The total number of internally displaced persons may have exceeded 2.0 million, including 800,000 children. There were reports that members of the security forces, harassed members of human rights groups. AUC, FARC, and ELN terrorists threatened and attacked human rights activists. Violence and extensive societal discrimination against women, child abuse, and child prostitution remain serious problems. Extensive societal discrimination against indigenous persons and minorities continued. Child labor was a widespread problem. Trafficking in women and girls for the purpose of sexual exploitation was a problem.

The FARC and ELN terrorists were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. Early in the year, during terrorist bombing campaigns, the number of abuses committed by FARC and ELN terrorists rose significantly; however, the rate of abuses declined over the year due to increased military pressure. The FARC and ELN announced that henceforth they would work together strategically and neither group would negotiate a peace agreement with the Uribe Government. Both terrorist forces engaged in a concerted campaign to destabilize municipal governments by killing urban officials and threatening to execute others. As a result, many mayors felt compelled either to submit their resignations or to govern from safer locales; however, the majority of the city government officials forced to flee in 2002 returned to their cities as security forces reentered previously abandoned cities under the Democratic Security Initiative. In addition to politicians, FARC and ELN terrorists killed journalists, labor union members, and numerous religious leaders. The FARC also continued to kidnap, torture, and murder off-duty members of the public security forces. The FARC and the ELN, kidnapped thousands of civilians and at least 25 members of the security forces to help finance subversion and put political pressure on the Government. Victims were held in deplorable conditions and were often tortured both physically and psychologically. The FARC and ELN terrorists caused massive displacements both intentionally and as byproducts of military offensives and caused hundreds of civilian deaths and injuries through random terrorist bombings throughout the country. They also engaged in widespread recruitment of minors and used female conscripts as sex slaves.

Despite cease-fires declared in the context of demobilization negotiations conducted by the AUC—an umbrella organization of different paramilitary terrorist groups—with the Government, these terrorists continued to commit numerous unlawful and political killings, including of labor leaders, often kidnapping and torturing suspected guerrilla sympathizers prior to executing them. They also conducted kidnappings for ransom and committed "social cleansing" killings of homosexuals and other supposedly "undesirable" elements. The AUC terrorists 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. AUC terrorists displaced thousands through both terror-induced forced displacements of suspect populations and military operations that drove peasants from their homes. AUC terrorists regularly threatened and attacked human rights workers and journalists who criticized their illegal activities. They also recruited child soldiers. Important strategic and financial areas continued to be heavily contested, especially as the Government eradicated coca crops, and created anti-kidnapping task forces.

The Government's emphasis during the year on improving security resulted in significant improvements in many human rights indicators. Murders fell by 20 percent, kidnappings declined 39 percent, and forced displacements of persons were cut by 49 percent. The number of newly displaced persons appeared to decline for the first time since 1999. The overall number of large-scale massacres and other killings committed by AUC terrorists appeared to decline during the year. Labor leaders and activists continued to be victims of high levels of violence; however, the number of union leaders killed during the year declined significantly.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings. The National Police registered 23,013 homicides during the year, a 20 percent decrease from 2002. The Colombian Commission of Jurists (CCJ), a prominent local human rights nongovernmental organization (NGO) (see Section 4), claimed there were at least 1,781 political murders and extrajudicial killings during the first 9 months of the year. The CCJ also asserted that at least 730 persons died in politically motivated massacres between July 2002 and June 2003. The Government's Presidential Program for Human Rights, however, reported that 430 persons died in massacres during the year, a 38 percent decrease from the Program's 2002 figure.

According to the CCJ, state security forces were responsible for at least 101 politically-motivated extrajudicial killings and 1 social cleansing killing during the first 9 months of the year. For example, according to Amnesty International (AI), on January 30, army troops removed 15-year-old Jose Amancio Niasa from a bus near Bagado, Choco department, and murdered him. Most of the incidents cited by the CCJ 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.). Investigations of past killings proceeded slowly.

The Office of the Inspector General (Procuraduria) and the military penal justice system continued separate investigations into the deaths of Florentino Castellanos and his 9-year-old son during a military operation near the town of Cantagallo, Bolivar department, in September 2002.

The Office of the Prosecutor General continued to gather evidence against eight members of the Army's Ninth Brigade, including a colonel and a captain, who were indicted in December 2002 for the extrajudicial killing of a FARC deserter in 2002.

From August 2002 through November 2003, the Inspector General's Office charged 68 members of the Armed Forces with human rights offenses. Of these individuals, 18 were soldiers, 13 were non-commissioned officers (NCOs), 11 were lieutenants, 15 were captains, 2 were majors, 6 were colonels, 2 were Brigadier Generals, and one was a Rear Admiral. As in the previous year, the Office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation.

As of December, the Human Rights Unit of the Prosecutor General's Office (Fiscalia) had issued preventive detention orders for 14 members of the Armed Forces for human rights violations and/or paramilitary collaboration. However, for various reasons, including lack of resources for investigation, 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. (On April 8, the Office of the Prosecutor General suspended three soldiers for their connection to the deaths of six children who were mistaken for insurgents in Pueblo Rico, Antioquia department in 2000. The military courts are still considering the case.

Investigations continue into the 2001 paramilitary massacre in San Carlos, Antioquia department, which resulted in the deaths of 13 persons.

Prosecutors were awaiting a verdict following the trial of 8 members of the army accused of the January 2002 murders of Uberney Giraldo and Jose Evelio Gallo, demobilized ELN guerrillas associated with the Socialist Renewal Current (CRS) political movement.

There was no progress in the investigation of a 2001 paramilitary massacre in San Carlos, Antioquia department, during which 13 persons died.

On July 23, retired army Lieutenant Colonel Jorge Plazas, who was serving a 40-year prison sentence for his role in the 1998 kidnapping and murder of Jewish businessman Benjamin Khoudari, escaped from his prison cell at the military's artillery school in Bogota. The army offered a \$5,350 (15 million pesos) reward for information leading to his arrest and announced penal and disciplinary investigations into his escape.

There was no progress during the year, none seemed likely, in the Prosecutor General's and the Inspector General's investigations of involvement of state security forces in the 1998 Barrancabermeja massacre and the 2000 murder of eyewitness Elizabeth Canas.

On March 26, a Bogota civilian court acquitted army intelligence officers Omar Berrio and Henry Berrio of masterminding the 1995 murder of Conservative Party



leader Alvaro Gomez. On May 22, a civilian court in Bogota acquitted retired army Colonel Bernardo Ruiz of involvement in the crime.

On December 18, the Government agreed to pay \$570,000 (1.6 billion pesos) to victims of the 1993 Riofrio massacre in Valle del Cauca department, during which paramilitaries murdered 13 peasants. Members of the army subsequently attempted to cover up the massacre by staging a mock combat at the scene and dressing the victims in guerrilla uniforms. The Government made its compensation decision following conciliation discussions between representatives of the Ministry of Defense and victims' families.

The Supreme Court had by year's end not ruled on appeals by 5 army officers and 4 suspected paramilitaries of their 1998 convictions for facilitating the 1988 Nuevo Segovia paramilitary massacre, in which 43 persons died.

There was no ruling on the Office of the Inspector General's appeal of a decision by the Council of State to overturn the Inspector General's order that the military dismiss Brigadier General Alvaro Velandia for involvement in the 1987 murder of M-19 guerrilla Nydia Erika Bautista. However, in November, the Human Rights Unit of the Prosecutor general's Office announced that it had enough evidence to continue its investigation of Velandia and three other NCOs.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from civilian leaders, including the President, and the military high command (see Section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities. For example, AI alleged that between May 1 and May 7, army soldiers wearing AUC armbands entered five indigenous communities in Arauca department and raped three teenage girls and killed one.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem. However, there was progress in several prominent cases related to military collusion with paramilitaries. For example, on December 16, the Inspector General's Office administratively sanctioned three military officers—retired Rear Admiral Rodrigo Alfonso Quinonez, Captain Oscar Eduardo Saavedra, and Captain Camilo Martinez—for failing to prevent the 2001 paramilitary massacre of 27 people in the village of Chengue, Sucre department. The Inspector General also ordered the dismissal of two NCOs, Rafael Euclides Bossa and Ruben Dario Rojas, for providing weapons to the paramilitaries that committed the massacre. There was no progress, however, in the investigation of the August 2001 murder of Yolanda Paternina, then-lead prosecutor in the case, or the disappearance in 2001 of three criminal investigators sent to Sucre to gather evidence in the case.

The Prosecutor General's Office closed its investigation into the military's alleged involvement in a 2001 paramilitary massacre near Buga, Valle del Cauca department, after finding no evidence of wrongdoing.

There was no progress in investigations of the 2000 and 2001 paramilitary murders of members of the "peace community" of San Jose de Apartado, Antioquia department. Peace community leaders accused the military of complicity in the crimes, and were highly suspicious of government investigators and prosecutors handling the cases. Members of the peace community were generally uncooperative and avoided speaking with authorities, severely limiting the Government's ability to make progress in the investigations.

In December, an army officer was convicted of collaborating with paramilitaries in the unsuccessful attempt on the life of labor leader Wilson Borja in 2000 (see Section 6.a).

There was no progress in the investigation of the 2000 paramilitary massacre of 42 persons in Las Ovejas, Bolivar department.

There was no progress in the investigations of army Colonel Victor Matamoros and army Captain Juan Carlos Fernandez for their alleged role in the 1999 paramilitary massacre in La Gabarra, Norte de Santander.

The Office of the Inspector General made no progress in its investigation of Colonel Rafael Alfonso Hani's alleged collaboration with paramilitaries during his tenure as commander of the Army's Palace Battalion in Buga, Valle del Cauca department, between 1999 and 2000.

There was no progress in investigations into the 1999 Tibu and Los Cuervos massacres in Norte de Santander department.

There was no progress in the investigation of the 1998 paramilitary massacre at Puerto Alvira, Meta department.

The Offices of the Prosecutor General and Inspector General continued to investigate whether members of the public security forces were involved in any of approximately 160 social cleansing killings that took place in northeastern Antioquia department between 1995 and 1998.

On June 20, former army colonel Lino Hernando Sanchez was convicted and sentenced to 40 years in prison for his role in the 1997 paramilitary massacre at Mapiripan, Meta department; the court also sentenced two non-commissioned officers to 32 and 22 years in prison, respectively. The Prosecutor General's Office had indicted former Brigadier General Jaime Uscategui in March for his alleged role in the massacre. Former army major Hernan Orozco, who petitioned for political asylum in a foreign country after testifying against Uscategui in an earlier military trial, was also indicted for allegedly helping Uscategui falsify official reports.

In May, the Prosecutor General's Office acquitted former General Rito Alejo del Rio of collusion with paramilitaries during his tenure as commander of the army's 17th Brigade in the Uraba region of Antioquia department from 1995 to 1997.

The trial continued of retired army Colonel Jose Ancizar Hincapie for alleged collaboration with paramilitaries who murdered 11 persons between 1993 and 1994.

The Inter-American Commission on Human Rights (IACHR) continued to broker a settlement of the Patriotic Union (UP) party's 1996 complaint that charged the Government with "action or omission" in the murders of nearly 3,000 UP and Communist Party members in the 1980s and 1990s. Negotiations between the Government and UP representatives continued, but little progress was achieved.

On March 28, two former officials from the city of Apartado, Antioquia department, were sentenced to 9 years in prison for organizing paramilitary groups that murdered several UP members between 1990 and 1996. On September 22, a judge ordered that an investigation into the 1990 murder of UP leader Bernardo Jaramillo be reopened, and that investigators determine whether paramilitaries successfully infiltrated Ossa's government-provided security detail.

Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. According to the CCJ, paramilitaries were responsible for at least 892 such killings during the first 9 months of the year. Paramilitaries targeted journalists (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), indigenous leaders (see Section 5), local politicians, and others who threatened to interfere with their criminal activities or showed leftist sympathies. For example, in January, paramilitaries in the town of Barrancabermeja, Santander department killed two feminist activists they suspected of collaborating with the FARC. On October 16, paramilitaries abducted and murdered Amaris Miranda, an activist with the Women's Popular Organization (OFF), a local NGO that was highly critical of paramilitary influence in the city. In December, police arrested four local paramilitaries suspected of participating in her murder.

The Office of the Prosecutor General continued to investigate scores of other murders committed by paramilitaries in Barrancabermeja.

The trial of four paramilitaries for the 2001 murder of former Cucuta regional ombudsman Ivan Villamizar continued at year's end (see Section 4). An arrest warrant was issued for AUC leader Carlos Castano for involvement in the crime.

There was no progress in the Prosecutor General's investigation of the 2001 paramilitary murder of Congressman Jairo Hernando Rojas.

Paramilitaries killed members of the security forces who interfered with their illegal activities. For example, on July 10, a paramilitary ambush killed two narcotics police officers who were searching for an AUC drug laboratory. Paramilitaries operating in Casanare and Boyaca departments responded to military offensives against paramilitaries in the region by executing five police officers in late July and early August. On February 13, in Gaira, Magdalena department, DAS agents arrested Luis Fernando Teheran, who was suspected of murdering five DAS agents in Magangua, Bolivar department, in February 2002.

Continuing a trend that began in 2002, paramilitaries appeared to commit far fewer large-scale massacres than in previous years. According to the Presidential Program for Human Rights, only 13 persons died in paramilitary massacres during the year, compared with 54 in 2002 and 281 in 2001. However, the CCJ blamed paramilitaries for far more massacres, reporting that paramilitaries killed at least 368 persons in massacres between July 2002 and June.

There was no progress in the investigations of alleged paramilitary massacres that occurred in Penol, Antioquia department, Frias, Magdalena department, and Sabaletas, Valle del Cauca department, in 2001.

Paramilitary continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and the mentally ill in city neighborhoods they controlled. According to the CCJ, paramilitaries committed at least 229 social cleansing killings during the first 9 months of the year. For example, the regional ombudsman in Bucaramanga, Santander department, reported that paramilitaries had murdered 37 adolescent vagrants in the city as of September. On June 1, DAS agents in Pereira, Risaralda department, captured an alleged paramilitary gunman wanted for

the murder of five drug addicts. On July 18, paramilitaries in Santa Rosa de Cabal, Risaralda department, killed three peasants who they claimed were common criminals.

Guerrillas, particularly the FARC, committed hundreds of unlawful killings. According to the CCJ, guerrillas were responsible for 427 unlawful killings during the first 9 months of the year, 203 of them massacres. The MOD attributed 70 percent of civilian deaths to guerrillas in 2002. The Presidential Program for Human Rights reported that the FARC killed at least 150 persons in massacres, although another 259 persons were killed in massacres in which the perpetrators remained unidentified.

Among guerrilla's primary targets were local elected officials, candidates for public office, religious leaders (see Section 2.c.), and alleged paramilitary collaborators. The FARC also continued its attempts to assassinate President Uribe (see Section 3).

On January 16, FARC guerrillas dragged 17 peasants from their homes in and around the town of San Carlos, Antioquia department, and executed them. Witnesses said the killers justified the executions by asserting that the victims were paramilitary collaborators. The army pursued and killed 12 of the guerrillas responsible for the massacre. On January 31, FARC guerrillas near the town of Piamonte, Cauca department, massacred eight community leaders whom they believed were paramilitary collaborators.

On May 5, the FARC executed 10 hostages, including Governor of Antioquia Guillermo Gaviria and former Minister of Defense Gilberto Echeverri (see Section 1.b.), during an ill-fated hostage rescue attempt by the military. Gaviria and Echeverri had been kidnapped in April 2002 while leading a peace march near the town of Caicedo, Antioquia department.

There was no progress in the investigations of the FARC's murders of seven ecotourists in Purace National Park in 2001, the FARC's murders of seven peasants near the village of Alto Sinu, Cordoba department, in 2001, or the ELN's murders of nine peasants in the village of La Cristalina, Santander department, in February 2001.

The Office of the Prosecutor General continued to investigate the deaths and disappearances of off-duty military and police personnel targeted by the FARC as part of its publicly announced "Pistol Plan". In January, for example, FARC guerrillas kidnapped, tortured, and killed a soldier who was returning from his father's funeral. On June 3, police arrested four members of the ELN after uncovering a plot to execute off-duty police officers in Cucuta, Norte de Santander department.

On September 26, the Office of the Prosecutor General indicted the entire FARC Secretariat for the murders of seven residents of the town of La Macarena, Meta department, in the week following the abolition of the FARC's former safe haven, or "despeje", in February 2001. Prosecutors believed the peasants were murdered for cooperating with the army.

On January 13, CTI and DAS agents arrested 14 guerrillas; one of whom was believed to have participated in the FARC's March 2000 attack on the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department, which killed 20 persons. They were awaiting trial at year's end.

The Office of the Prosecutor General continued to investigate the FARC's December 2000 murder of Congressional peace commission chairman Diego Turbay, his mother, and five other persons in Caqueta department. While arrest warrants have been issued, no progress was expected in arresting the senior FARC leaders accused of ordering the crime. On July 28, Wellington Silva, the guerrilla charged with the 1997 kidnapping and murder of Turbay's older brother, then-Senator Rodrigo Turbay, escaped from Neiva prison after FARC guerrillas launched an offensive against the prisons to free Silva and other guerrilla prisoners.

On May 17, the Government extradited Popular Liberation Army (EPL) member Gerardo Herrera Iles, who was indicted in a foreign court for the 2000 kidnapping and murder of a foreign oil company technician near the Ecuadorian border.

There was no progress in the investigation of the FARC's murders of Henry Perea, former mayor of Jurado, Choco department, in 2001, and former Minister of Culture Consuelo Araujo near Valledupar, Cesar department, also in 2001.

The trial in absentia of three FARC guerrillas suspected of involvement in the 1999 murders of 3 U.S. citizen indigenous rights activists began in Cucuta on May 26. Convicted FARC guerrilla Nelson Vargas, who confessed to the crime, was extradited to the United States.

The FARC executed guerrillas who attempted to desert. In June, the FARC Secretariat issued orders to infiltrate the Government's desertion/reinsertion program in order to murder former members of the organization. On June, FARC infiltrators murdered a former guerrilla who had accepted a leadership role in the program.

*b. Disappearance.*—The law specifically defines forced disappearance as a crime. The CCJ reported 260 cases of forced disappearance during the first 9 months of the year, and accused the security forces of direct responsibility for 48 of these cases. For example, the CCJ alleged that on May 11 troops of the 6th Brigade surrounded the towns of Montoso and Aco, Tolima department, accused various members of the population of being guerrilla collaborators, and causing the disappearance of Jose Maximiliano Gomez. The Association of Families of Detained and Disappeared Persons (ASFADDES), which reported 785 forced disappearances during the first 9 months of the year, claimed there have been more than 6,000 cases of forced disappearance since 1982. The U.N. Working Group on Enforced or Involuntary Disappearances reported that there have been at least 1,114 cases since 1981; 850 of these cases remained unresolved.

Paramilitaries were responsible for most forced disappearances. According to the CCJ, paramilitaries were responsible for 183 forced disappearances during the first 9 months of the year. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all were presumed dead (see Section 1.a.). For example, authorities believed paramilitaries killed four fishermen who remained unaccounted for after a 2001 mass abduction from the Cienaga de Santa Marta region of Magdalena department. On January 18, paramilitaries abducted an eight-man hunting party near the town of Palo Cabildo, Tolima department, as well as a three-man search party sent to look for the missing hunters. On February 12, the army discovered their bodies in a mass grave. The CCJ blamed guerrillas for 3 forced disappearances.

Kidnapping, both for ransom and for political reasons, remained a serious problem. According to the Free Country Foundation, there were 2,200 kidnappings during the year, a reduction of 30 percent compared to the 2,982 kidnapping reported in 2002. Elite government anti-kidnapping units known as GAULAs and other elements of the security forces freed 667 hostages in the first 9 months of the year. However, despite government efforts, the Free Country Foundation reported that, through August, at least 52 persons died in captivity.

Some members of the state security forces were involved in kidnapping for ransom. In August, for example, three policemen from Popayan, Cauca department, kidnapped a soldier and his younger brother, asking for \$77,000 (200 million pesos) ransom. The soldier had been part of an army unit that discovered a FARC cache of \$8 million (20.7 billion pesos) near the town of San Vicente del Caguan, Caquetá department.

The Free Country Foundation reported that paramilitaries were responsible for 168 kidnappings through November, or 8 percent of all kidnappings in which a perpetrator was identified. Paramilitaries kidnapped both for ransom and as an expression of power and influence. For example, on May 30, paramilitaries in the department of Cesar released a senior departmental government employee they had held captive for over 9 months; paramilitaries justified their actions by claiming they had held him while they investigated allegations of corruption. On September 20, the military rescued a rancher that paramilitaries were holding for ransom near the town of Puerto Lopez, Casanare department.

No progress was made in the investigation of the June 2001 paramilitary abduction of Embera-Katio indigenous leader Kimi Domico in Tierralta, Córdoba department. Comments made by AUC military commander Salvatore Mancuso in 2002 implied that Domico had been killed.

No progress was made and none seemed likely in the investigation of the disappearances of two CTI agents near Berrugas, Sucre department, in 2001 (see Section 1.a.).

Kidnapping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and the ELN. The Free Country Foundation reported that guerrillas were responsible for approximately 55 percent of kidnappings reported during the first 11 months of the year in which a perpetrator was identified. According to the Foundation, through November, the FARC kidnapped 640 persons and the ELN 320. In addition, the FARC often purchased kidnapping victims from common criminals and then negotiated ransom payments with families. There were many reports that guerrillas tortured kidnap victims (see section 1.c. and 1.g.).

One of the largest categories of kidnapping victims was children, 201 of whom were kidnapped by mid-October. In February, for example, the ELN kidnapped a captured EPL guerrilla's infant to pressure the former insurgent not to cooperate with the authorities. On February 21, the military rescued the child and arrested the guerrilla who cared for the infant.

The Free Country Foundation reported that, as of November 30, there had been 1,358 kidnappings for ransom during the year, or approximately 70 percent of all kidnappings. Guerrillas even demanded ransom payments to return the bodies of

hostages who died in captivity. In August, for example, the ELN demanded \$7,700 (20 million pesos) to return the body of deceased hostage Carlos Enrique Salinas to his widow. Salinas had died in captivity after being kidnapped from the tourist resort of Bahia Solano, Choco department, in August 2002.

The FARC and ELN also committed numerous politically motivated kidnappings. On September 14, for example, the ELN kidnapped eight foreign tourists in the mountainous Sierra Nevada region of Magdalena department. Rather than demanding a ransom, the ELN used negotiations over the hostages' release to demand political concessions. All hostages were released by December 22, in return for a Roman Catholic Church-sponsored study of economic and social conditions in the Sierra Nevada region.

The FARC used political kidnappings to discredit the Government and pressure it into a prisoner exchange. On February 13, for example, the FARC kidnapped three foreign citizens after their narcotics surveillance aircraft crash-landed in a rural area of Caqueta department. The FARC said it would release the three only as part of a prisoner exchange.

The FARC continued to hold political hostages, including former presidential candidate Ingrid Betancourt, former Senator Jorge Eduardo Gechem, former members of Congress Orlando Bernal, Luis Eladio Perez, and Consuelo Gonzalez, Congresswoman Gloria Polanco, former Governor of Meta department Alan Jara, and 12 former regional legislators from Valle del Cauca department. On August 5, the FARC released former Congressman Oscar Lizcano after nearly 3 years in captivity. The Government indicted various alleged guerrillas for these crimes, but none had been convicted by the end of the year.

The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of a "humanitarian" prisoner exchange. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the Government to cede to the FARC's demands. However, the Government insisted on ironclad guarantees that that released combatants not return to terrorist ranks, a condition unacceptable to the FARC.

The FARC also kidnapped members of the public security forces. According to the Free Country Foundation, 25 members of the public security forces were kidnapped through November, all by guerrillas, particularly the FARC.

The FARC killed numerous hostages during the year. For example, on May 5, the FARC executed Antioquia Governor Guillermo Gaviria, former Minister of Defense Gilberto Echeverri, and eight others during an ill-fated rescue attempt by the military (see Section 1.a.). During the FARC's February 13 kidnapping of three foreign citizens following their plane's crash landing, the FARC executed another foreign citizen and a Colombian military officer. The FARC also executed a former beauty queen and her industrialist husband, who were kidnapped in December 2002, and a Japanese executive, who was kidnapped in early 2001. On December 15, DAS agents arrested FARC leader Wilmer Marin, alias "Hugo," for murdering the Japanese national.

On July 4, Vice-President Francisco Santos announced that the Government was creating a sophisticated database to help GAULA units apply lessons from past operations and use information gathered from victims and families to improve their performance. The government-affiliated Fund for the Defense of Personal Liberty (FONDELIBERTAD) provided assistance to approximately 600 friends and relatives of kidnap victims.

*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 sometimes mistreated and even tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see Section 1.e.). In November, the U.N. Committee against Torture expressed "concern over the large number of cases of torture and mistreatment allegedly committed in a generalized and habitual manner by state security forces and bodies . . . both in and out of armed operations."

The Office of the Inspector General received 103 complaints of torture by state agents in 2002. The CCJ asserted that between July 2002 and June 2003 the security forces were responsible for at least 52 incidents of torture.

AI reported that, on May 28, Wilson Duarte, a peasant farmer, and Hernando Mican were abducted by paramilitaries, supported by the military, in Viota, Cundinamarca department, and later tortured and killed. The Prosecutor General's Office has issued five orders of preventive detention, including two against members of the army, in this case.

The Office of the Prosecutor General continued to investigate accusations publicized during 2002 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 kidnappings.

The CCJ reported that paramilitaries were responsible for at least 123 cases of torture between July 2002 and June. On July 21, for example, paramilitaries allegedly abducted Nora Cecilia Velasquez, a leader of the National Association of Black and Indigenous Women, and repeatedly tortured her physically and psychologically for 3 days before releasing her. Many victims of paramilitary killings often showed signs of torture; for example, in April authorities discovered a former paramilitary base in the village of Puerto Torres, Caqueta department, and found evidence that paramilitaries had dismembered and burned victims alive.

Guerrillas also committed acts of torture. The CCJ reported 10 cases of torture by guerrillas between July 2002 and June; the bodies of many persons kidnapped and subsequently killed by guerrillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (see Section 1.b.). The MOD reported that guerrillas tortured, mutilated, and killed soldiers and police who surrendered (see Section 1.g). In May, for example, FARC guerrillas tortured and killed two police officers they forced off a bus traveling between the towns of Villanueva and Arenal, Bolivar department.

Prison conditions remained harsh, especially for prisoners without significant outside support. Many of INPEC's 8,756 prison guards were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems. Private sources continued to supplement most prisoners' food.

Only six prisons—Valledupar, Acacias, Popayan, Combita, and newly constructed prisons in Palogordo, Santander department, and La Porada, Caldas department—met international standards for acceptable prison facilities. In other facilities, inmates paid to eat, drink, or sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards.

According to INPEC, overcrowding was the prison system's most serious problem. At the end of the year, the country's prisons and jails held 62,496 inmates, 30 percent over their intended capacity of 48,000. According to the National Human Rights Ombudsman's Office, the increasing severity of overcrowding was a direct result of more aggressive Government security policies, which were adding inmates at nearly six times previous annual rates.

Incarcerated members of illegal armed groups who refused to renounce terrorist affiliations were housed separately from members of rival groups and the general prison population. Authorities generally granted incarcerated leaders of these groups substantial autonomy to organize their respective prison wings and structure daily activities. To facilitate conditions for negotiations, the Government allowed some incarcerated leaders to use special communications equipment to maintain contact with terrorists still at large. Authorities continued moving high-level narcotics traffickers to the new high security prison at Combita, where they endured the same spartan conditions as other prisoners. In March, President Uribe announced the elimination of special privileges for white-collar criminals.

The genders were separated in facilities that held both men and women, and there were dedicated women's prisons. Conditions at women's prisons were similar to those at men's. 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 nearly 60 percent of prison inmates. According to INPEC, 27,793 pretrial detainees were held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees impossible.

The Government sometimes failed to prevent deadly violence among inmates. INPEC reported at least 15 violent deaths among inmates during the year, not including suicides. There were 2 major prison riots. On May 30, inmates protesting conditions at the city jail in Santa Marta, Magdalena department, rioted for approximately 32 hours, leaving several injured. On February 3, several inmates were seriously injured—one was paralyzed—when guards used clubs and tear gas to break up a riot at a prison in San Isidro, Magdalena department. The Office of the Prosecutor General continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

One hundred and seventeen prisoners escaped during the year. Fifty escaped while on furlough with special passes, 61 escaped because of faulty security, and illegal armed groups rescued 6. For example, on December 7, 6 members of the FARC

escaped from jail in Florencia, Caqueta department, after starting a riot and overpowering the guards.

The ICRC continued to have routine access to most prisons and police and military detention centers. 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 prohibits arbitrary arrest and detention; however, there were allegations that authorities detained citizens arbitrarily.

The 125,000 members of the National Police fall under the jurisdiction of the Ministry of Defense. The National Police includes special units that focus on intelligence, narcotics, kidnapping and extortion, and rural policing. During the year, the police established a permanent presence in all but 18 of the 157 municipalities that lacked a police presence at the end of 2002. Police are authorized to execute arrest warrants and detain suspects “caught in the act” or fleeing the scene of a crime. Agents of the Department of Administrative Security (DAS), have broad intelligence gathering, law enforcement, and immigration control function, as do members of the Prosecutor General’s Corps of Technical Investigators (CTI).

Police, DAS, and CTI officials executed arrest warrants issued by prosecutors based on probable cause. Law enforcement officials also arrested criminals caught in the act or fleeing the scene of a crime. Members of the Armed Forces detained members of illegal armed groups captured in combat, but were not authorized to execute arrest warrants. An anti-terrorism law passed by the Senate on December 10—but not yet endorsed by the Constitutional Court—would grant the military this power (see Section 1.f.). Law enforcement authorities must promptly inform suspects of the reasons for their arrest and bring suspects before a senior prosecutor within 36 hours of their detention. Prosecutors must rule on the legality of detentions within 72 hours.

The law prohibits incommunicado detention. Suspects have the right to prompt access to counsel of their choice, and public defenders from the Office of the Human Rights Ombudsman assist indigent defendants. Individuals accused of lesser or unintentional crimes have access to bail; bail is generally not available for serious crimes such as murder, rebellion, or narcotics trafficking. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In the cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Prominent human rights NGOs complained that the Government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. According to the Center for Popular Research and Education (CINEP), the security forces arbitrarily detained over 2,000 persons during the first 9 months of the year, a 400 percent increase over 2002. Many of these detentions took place in highly conflictive areas where the military was involved in active hostilities against terrorist insurgents. For example, on August 21 in the town of Saravena, Arauca department, military authorities arrested 42 persons, including social activists and human rights advocates, based on the accusations of masked informants who pointed out alleged guerrillas collaborators to prosecutors participating in the operation. The Government and prominent local NGOs frequently disagreed about how to define an “arbitrary” detention; the Government characterized detentions based on compliance with legal formalities, while NGOs typically applied other criteria that often had a political basis.

The Government said it did not hold political detainees, although some prominent NGOs considered captured guerrillas to be detained for political reasons.

Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as political pawns in a prisoner exchange (see Section 1.b.).

The Constitution prohibits forced exile, and the Government respected this prohibition in practice. However, many persons from across the socio-economic spectrum went into self-exile because of threats from paramilitaries, guerrillas, or common criminals.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the suborning and intimidation of judges, prosecutors, and witness was a serious problem. The judicial system was also extremely overburdened. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that, as of October, the civilian judiciary—including the criminal justice system—suffered from a back-

log of at least 102,000 cases. These backlogs led to large numbers of pretrial detainees (see Section 1.c.) Impunity remained the greatest challenge to the credibility of the Government's commitment to human rights.

Judicial authorities were frequently subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees (ASONAL), numerous judicial branch employees received threats against their lives and some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Others were less fortunate. For example, on January 27, paramilitary gunmen murdered municipal judge Marilis Hinojosa in the town of Becerril, Cesar department. As of the end of the year, the Human Rights Unit of the Prosecutor General's Office had charged more than 20 persons in the case, including the mayors of Becerril and the neighboring town of Codazzi. On September 4 in Bogota, suspected FARC operatives killed a former prosecutor who had been responsible for investigating the February bombing of the El Nogal social club (see Section 1.g.). Witnesses, who were even more vulnerable to intimidation, often lacked faith in the Government's ability to protect them and refused to testify.

The civilian justice system is a separate and independent branch of government that uses a Napoleonic legal system incorporating some accusatorial elements. In late 2002, Congress approved constitutional changes designed to convert the current mixed judicial system into a purely accusatorial system. The reforms will go into effect on January 1, 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.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil is the largest jurisdiction 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 small towns, a single "all-purpose" judge rules on all cases. Specialized circuit courts within the civil jurisdiction try cases involving particularly sensitive crimes such as narcotics trafficking and terrorism.

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 Supreme Council of the Judiciary (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 that encompasses 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 the judicial process as a legal defense of last resort. Courts must rule on the validity of a tutela within 10 days. Approximately 150,000 tutelas were before the Constitutional Court for possible review at the end of the year.

The final functional jurisdiction of the civilian justice system is the special jurisdiction. The special jurisdiction consists of the justices 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 Supreme Council of the Judiciary (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 conflicts of jurisdiction, such as those between the civilian and military justice systems.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issue conflicting rulings and frequently disagree about jurisdictional responsibilities.

The Office of the Prosecutor General (Fiscalia) is tasked with investigating criminal offenses and prosecuting 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). In 1994, the Prosecutor General's Office established a special unit to investigate human rights crimes. The human rights unit is headquartered in Bogota and includes 11 satellite units in 7 regional capitals. The unit's 42 prosecutors were handling 1,458 cases at year's end.

The Office of the Inspector General (Procuraduria), also known as the Public Ministry, 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, respectively. The Office of the Inspector General 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 Inspector General's Office referred all cases of human rights violations received during the year to the human rights unit of the Prosecutor General's Office.

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.

An accused is presumed innocent until proven guilty and has the right to timely consultation with counsel. Attorneys from the Office of the Human Rights Ombudsman (see Section 4) serve as public defenders and are required to represent indigent defendants. However, the Office is severely overburdened. Defendants have the right to be present at proceedings against them, review relevant government evidence, present witnesses and evidence on their own behalf, and confront and question prosecution witnesses. However, most evidence continued to be presented in writing, and judges generally relied on written records, rather than oral argument, to determine guilt or innocence. Defendants have the right to appeal a conviction to a higher court.

The military justice system, as part of the Ministry of Defense, falls under the executive branch. The director of the military penal justice system reports directly to the civilian Minister of Defense. The military justice system consists of the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts, and 40 military trial courts. The civilian Supreme Court serves as a second court of appeals for cases in which sentences of 6 or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. 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 unrelated to military service. Such cases are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. On July 29, the Minister of Defense inaugurated the new "Armed Forces School of Human Rights, International Humanitarian Law, and Military Penal Justice" at New Granada Military University.

Military prosecutors report to the director of the military penal justice corps, a senior flag rank officer, rather than to local commanders. The military penal code denies commanders the power to impose military justice discipline on their subordi-

nates, and extends legal protection to service members who refuse to obey illegal orders to commit human rights abuses.

Criminal investigations within the military justice system are designed to be completed quickly. Military justice system investigators conduct fact-finding with the assistance of criminal investigators and/or judicial police. Preliminary investigations generally last 60 days or less, although investigations can last up to 180 days if a case implicates 2 or more suspects. If investigators believe there is reasonable evidence of guilt, a formal investigation, conducted within the same time frame, is initiated. During formal investigation, suspects in crimes punishable by 2 or more years in prison are usually placed in investigative detention, which can last up to 120 days. At the conclusion of the formal investigation phase, investigators can close a case for lack of evidence or turn it over to military prosecutors.

Prosecutors have 15 days in which to decide whether to return a case to investigators for further investigation, close it, or issue formal charges. If a suspect is charged, a court-martial takes place within 28 days. However, this rigorous timetable is suspended if a defendant appeals the court's jurisdiction or procedural rulings, an exception that causes some cases to drag on for years. For example, jurisdictional appeals accounted for some of the delay in the military's investigation of the 1998 Air Force bombing of the village of Santo Domingo, Arauca department (see Section 1.g.).

Military judges preside over Colombian courts-martial without the assistance of a jury. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within 8 days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

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. A 1993 Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on public defenders from the Ombudsman's Office.

From August 2002 to October 2003 the CSJ ruled on 18 jurisdictional disputes between the civilian and military justice systems, assigning 12 cases to the civilian system and 6 cases to the military justice system. The Superior Military Tribunal reported that 72 cases were transferred from military to civilian jurisdiction from September 2002 to October 2003. An independent review of these cases revealed that approximately 26 involved allegations of gross violations of human rights or collaboration with paramilitaries.

The MOD reported—and the Prosecutor General's Office confirmed—that military and police personnel charged by civilian prosecutors routinely were suspended from their duties and placed on half-pay. Officers and NCOs were removed from command duties. Seventeen members of the military and at least seven police officers were suspended at year's end for human rights violations and/or collaboration with paramilitaries.

The Government did not hold political prisoners, although it held approximately 6,800 prisoners accused of terrorism, rebellion, or aiding and abetting insurgency. The Government gave the International Committee of the Red Cross (ICRC) access to these prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were exceptions.

With the exception of exigent circumstances, the law requires government authorities to obtain a warrant signed by a senior prosecutor in order to enter a private home without the owner's consent. 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, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court. On December 10, the Senate passed an anti-terrorism statute containing provisions that would authorize government authorities to intercept private communications without judicial authorization in cases related to terrorism; implementing legislation elaborating on this exception had not been passed by the end of the year. Because the statute involves a constitutional reform, it must receive the endorsement of the Constitutional Court before becoming law. The Court had not ruled on the law by the end of the year.

On September 9, the Prosecutor General's Office charged 5 members of Medellín's anti-kidnapping unit (GAULA) with illegally wiretapping the telephone lines of 2,000 individuals and NGOs between 1997 and 2000. Separately, the Office of the Inspector General ordered the dismissal of Colonel Mauricio Santoyo, Medellín GAULA commander at the time the illegal wiretaps were placed and monitored. Santoyo, who was serving as Chief of Presidential Security at the time of his dismissal, appealed the charges. The Inspector General's ruling on Santoyo's appeal was pending at year's end. There was no significant progress in criminal and disciplinary investigations of the 2001 murder of police officer Carlos Ceballos, who testified in the case.

A key component of the Government's "Democratic Security Strategy" to combat terrorism and restore order throughout the country was a network of civilian informants who were paid to identify terrorist activists and sympathizers. Many national and international human rights groups criticized the network as vulnerable to abuse and a threat to privacy and other civil liberties.

The Government did not prohibit membership in most political organizations; however, membership in private organizations that espoused or carried out acts of violence—such as the AUC, FARC, and ELN—was illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see Section 1.g.) and conscription, and punished family members for the alleged violations of individuals. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and ordered forced implantation of intrauterine devices and forced abortions.

*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—continued. 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. Government security forces generally abided by international humanitarian law and respected human rights. The Human Rights Ombudsman's Office reported that only 2 percent of complaints it received about violations of human rights and international humanitarian law implicated members of the security forces. However, in violation of government and military policy, some members of the security forces violated human rights. For example, the CCJ asserted that state security forces committed 101 extrajudicial killings during the year (see Section 1.a.). Negligence by members of the public security forces, particularly during combat operations, also sometimes led to civilian deaths.

On January 18, the Human Rights Ombudsman's Office announced a \$5.3 million (15 billion pesos) lawsuit against the Government for alleged military negligence in failing to protect the citizens of Bojaya, Choco department, during a May 2002 battle between the FARC and AUC. One hundred nineteen civilians hiding in the town church were killed when a FARC gas cylinder bomb impacted the building.

On April 8, the Office of the Prosecutor General suspended three soldiers for their roles in the accidental deaths of six children caught in a crossfire between an army unit and ELN guerrillas in the town of Pueblo Rico, Antioquia department, in 2000. The case was still under investigation by the military penal justice system at year's end.

On January 14, the Inspector General's Office upheld the 90-day suspension of a helicopter pilot and flight technician for their roles in the 1998 Air Force bombing of the town of Santo Domingo, Arauca department. In February, consistent with an October 2002 ruling by the Constitutional Court, the Supreme Council of the Judiciary (CSJ) transferred the criminal investigation of the bombing from the military to the civilian justice system. On December 20, the Prosecutor General's Office charged the helicopter's pilot, copilot, and flight technician with involuntary manslaughter.

The Government, including military authorities, followed an open-door policy toward the ICRC, allowing free and safe passage to members of impartial humanitarian organizations, even in conflict zones.

Contrary to the explicit directives of civilian defense authorities and members of the military high command, some members of the public security forces—principally enlisted personnel and NCOs, but also some more senior officials—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. Evidence suggested there were tacit arrangements between local military officers and paramilitary groups in some regions, and some members of the security forces

actively assisted paramilitary groups by passing them through roadblocks, sharing intelligence, providing them with weapons and ammunition, and joining their ranks while off duty.

In January, an arrest warrant was issued for Major Renato Acuna, who was accused of trafficking arms and munitions to paramilitaries. Army Captain Jorge Ernesto Rojas will stand trial for alleged collaboration with Major Orlando Alberto Martinez in trafficking thousands of Bulgarian AK-47 assault rifles to the AUC.

Although there continued to be incidents of collaboration between members of the security forces and paramilitaries, the military substantially increased its offensive actions against paramilitary groups. According to the Ministry of Defense, members of the security forces captured 3,166 during the year, a 133 percent increase from 2002. They also killed 346 paramilitaries in combat over the year compared to 187 in 2002. Paramilitaries lost significantly more combatants per confrontation with the security forces than did the FARC or ELN.

Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. There were approximately 12,000 paramilitary combatants in the country, the largest and most influential group of which was the United Self-Defense Forces of Colombia (AUC), a terrorist organization. The AUC operated as a loose confederation of disparate paramilitary groups, the largest of which was the United Self-Defense Forces of Cordoba and Uraba (ACCU), led by the principal organizers of the AUC, Carlos Castano and Salvatore Mancuso. Other important paramilitary organizations included the Cacique Nutibara Bloc (BCN), the Central Bolivar Bloc (BCB), and the Middle Magdalena Bloc (BMM).

On July 15, following 7 months of exploratory discussions between the AUC and a special government commission, the Government's Office of the High Commissioner for Peace (ACP) and senior representatives of the AUC agreed to begin formal negotiations for the AUC's full demobilization. Two pilot demobilizations took place near the end of the year. On November 25, 874 members of the AUC's Cacique Nutibara Bloc (BCN), a primarily urban organization, demobilized in Medellin, Antioquia department. On December 7, 168 members of the Peasant Self-Defense Groups of Ortega, a small paramilitary force with loose ties to the AUC, demobilized in Cauca department. The Government continued separate discussions with other paramilitary organizations, including the BCB and the AUC's Centauros Bloc, with the goal of fully demobilizing all overt paramilitary forces by the end of 2005.

The paramilitary demobilization process was controversial. Critics from across the ideological spectrum, including major domestic and international human rights groups, expressed concerns about the legitimacy of the process, the real motivations of the paramilitaries, and the potential for impunity for confessed human rights abusers.

In December 2002, the AUC and several other paramilitary organizations called cease-fires as signs of good will in anticipation of negotiations with the Government. The AUC cease-fire was reiterated in its July 15 agreement with the Government. However, none of the paramilitary cease-fires were fully observed, and some dissident paramilitary groups never agreed to a cessation of hostilities. Power struggles for leadership and control of drug trafficking resources provoked internecine warfare among paramilitary groups. For example, prior to its demobilization in November, the BCN engaged in a violent conflict with the dissident Metro Bloc that caused the Metro Bloc's total disintegration. On the country's eastern plains, the Centauros Bloc and the Peasant Self-Defense Forces of Casanare (ACC) continued to fight over drug cultivation areas and trafficking routes. Most paramilitary cease-fire violations, however, affected innocent civilians.

The Colombian Commission of Jurists registered at least 600 violations of paramilitary cease-fires during the year, including unlawful killings (see Section 1.a.), forced disappearances and kidnappings (see Section 1.b.), and forced displacements.

Paramilitaries were responsible for thousands of civilian deaths during the year. Combat between paramilitaries and guerrillas led to the deaths of hundreds of civilians. For example, in May, crossfire between paramilitaries and guerrillas killed five indigenous persons near Tame, Arauca department. On July 6, approximately 30 peasants were killed during a battle between paramilitaries and guerrillas near Tibu, Norte de Santander department. Despite paramilitary cease-fire violations, however, the overall level of paramilitary violence appeared to drop significantly. According to figures released by the Presidential Program for Human Rights, paramilitaries committed fewer selective killings, particularly of vulnerable groups such as trade unionists, fewer massacres, and forcibly displaced fewer civilians. CCJ reported that, through September, paramilitaries were responsible for the deaths of 892 civilians, a negligible difference from 2002.

Although the overall number of displacements caused by paramilitaries fell, paramilitaries continued to forcibly displace civilians residing along key drug and

weapons transit corridors or suspected of harboring sympathies for guerrillas. For example, on April 1, paramilitaries moved into the town of Viota, Cundinamarca department, and displaced 1,500 peasants suspected of having guerrilla sympathies. 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 (see Section 1.d.). For example, in January, an AUC blockade of food and other essential items forced 74 rural families to flee to urban areas of southern Bolivar department.

Paramilitaries failed to respect the injured and medical personnel. Doctors and hospitals suspected of treating guerrillas were frequently declared military targets. For example, in August paramilitaries boarded a bus in Meta department and killed an indigenous doctor for allegedly collaborating with guerrillas.

Although paramilitaries continued to recruit minors (see Section 5), paramilitary groups turned over at least 75 minors to government authorities during the year, either as signs of good faith or as conditions of formal demobilization. For example, on June 26, paramilitaries operating in Meta and Vichada departments turned over 15 child soldiers to Government authorities. In conjunction with the BCN's formal demobilization in Medellin, 48 child soldiers were demobilized separately and turned over to government social services.

The country's two largest left-wing guerrilla organizations are the 13,500 member Revolutionary Armed Forces of Colombia (FARC), a terrorist organization, and the 3,500 member National Liberation Army (ELN), also a terrorist organization. Both organizations declined in numerical strength during the year because of strong pressure from the military that caused high numbers of guerrilla casualties and led thousands of guerrillas to desert. In many areas of the country, the two guerrilla groups worked together to combat both government forces and illegal paramilitaries. On August 26, the FARC and ELN high commands issued a joint communique acknowledging their cooperation and affirming that neither would enter peace negotiations with the administration of President Alvaro Uribe.

The FARC and ELN systematically violated international humanitarian law by committing unlawful killings, kidnapping civilians and military personnel, torturing captives, and recruiting child soldiers (see Sections 1.a., 1.b., and 1.c., and 5.).

Guerrillas were responsible for a large percentage of civilian deaths related to the internal conflict. Combat between guerrillas and state security forces caused hundreds of civilian casualties. For example, on February 18, two elderly women were killed in a crossfire between the Colombian Army and FARC guerrillas attacking the town of Mantanita, Caqueta department. CCJ attributed 427 civilian deaths to the FARC and ELN, and 361 to unidentified actors.

According to the Ministry of Defense, as of September 30, guerrillas, particularly the FARC, and to a lesser extent, the ELN, committed nearly 650 terrorist bombings. On February 7, for example, a FARC operative detonated a car bomb in the parking garage of Bogota's exclusive El Nogal social club, killing 35 civilians, including 6 children, and injuring 173 others. On February 15, the FARC detonated a large cache of explosives during a police raid on a house in Neiva, Huila department that killed 17 persons and injured 37 others. The home was located near the city airport's main runway, and officials believed the explosives were intended for use in an assassination attempt against the President, who arrived by air the following day. On March 5, the ELN detonated a car bomb in a crowded shopping district in Cucuta, Norte de Santander department, that killed 7 persons and injured 60 others. In January, the FARC forced civilians to drive four cars loaded with explosives into military targets in Arauca department. The terrorists detonated the explosives by remote control, thereby killing the unwitting drivers. Guerrillas also detonated bombs attached to motorcycles, bicycles, animals, and human cadavers.

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, between 70,000 and 100,000 landmines were deployed nationwide, and there were 860 registered landmine incidents during the year, a 30 percent increase over 2002. Landmines killed at least 155 people during the year, 25 percent of them civilians. Guerrillas were responsible for over 90 percent of landmine incidents. 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 mine-sweeping technology. On February 27, the Government approved a National Mine Action Plan, and in March the Government and the OAS signed an agreement on cooperation and technical assistance.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed wounded prisoners, threatened and murdered doctors and nurses, and killed enemy combatants receiving medical care. For example, on April 22, ELN combatants entered a medical facility in the town of Fortul,

Arauca department, and executed two wounded soldiers. On April 5, FARC guerrillas in Norte de Santander department opened fire on an ambulance carrying a critically ill 6-month-old girl and her family.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and removed potential Government or paramilitary collaborators from strategic zones. For example, in February, the FARC displaced 386 peasants near La Hormiga, Putumayo Department, in an attempt to force paramilitaries to retreat from this strategic coca-cultivation area. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, in March the ELN imposed a blockade on several municipalities in eastern Antioquia department, causing serious food shortages that led to the displacement of hundreds of civilians. In May, the FARC imposed an armed shutdown of highways between the towns of Pensilvania and Samana, Caldas department. Over a period of 3 weeks, and despite efforts by the security forces to neutralize the threat, the FARC disabled and burned vehicles that attempted to travel between the towns and destroyed local television and radio stations.

The FARC continued its systematic campaign to attack and cripple the nation's vital infrastructure. According to government figures, the FARC destroyed 326 electrical towers, 19 communications towers, and 33 bridges, and made 3 unsuccessful attacks on aqueducts. The FARC, in conjunction with the ELN, increased the number of its attacks on the nation's oil infrastructure by 140 percent, blowing 179 holes in oil pipelines over the course of the year. Guerrillas reacted to an increase in security around the Cano Limon-Covenas pipeline in northern Colombia by conducting a majority of their attacks on more vulnerable pipelines in southern Colombia. For example, on July 23, the FARC attacked five oil wells in Putumayo department, which were only repaired after the arrival of foreign experts who capped the exposed wells in mid-August. Former Minister of Environment Cecilia Rodriguez called the attacks the country's worst ecological disaster in years.

*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 these rights in practice. Individuals criticized the Government both publicly and in private, and the media expressed a wide spectrum of political viewpoints and often sharply criticized the Government, all without fear of Government reprisal. However, journalists regularly practiced self-censorship to avoid retaliation and harassment by criminals and members of illegal armed groups.

Several major newspapers and news magazines circulated nationally, and there were many influential regional publications. There were two major national radio networks and many national and regional television channels. The National Television Commission continued to oversee television programming, although it did not censor substantive content. Major international wire services, newspapers, and television networks had a presence in the country and generally operated free of Government interference.

Media ownership remained concentrated in the hands of wealthy families, large national conglomerates, or groups associated with one or the other of the two dominant political parties. However, Spanish media conglomerate Prisa acquired majority ownership of the country's largest radio network, becoming the first foreign media owner in the country.

The Government did not assert "national security" to suppress views that were merely politically embarrassing or objectionable on other grounds, although a ban on publication of evidence related to criminal investigations remained in effect.

The Government did not appear to use libel laws to suppress criticism or engage in direct or indirect censorship of the media. However, in June, prosecutors charged newspaper columnist Roberto Posada with libel for publicly insinuating that prominent businessman Pedro Juan Moreno had links to paramilitaries. Posada successfully appealed the charges. The media's reliance on government advertising revenues may have reduced its criticism of government actions and policies.

Although the media generally did not practice self-censorship out of fear of government reprisal, national and international NGOs reported that media representatives regularly practiced self-censorship because of threats of violence. At least 7 journalists went into voluntary exile during the year, joining 13 who left the country in 2002.

The security forces generally did not subject journalists to harassment, intimidation, or violence; however, there were exceptions, as well as reports of threats and violence against journalists by corrupt local officials. In March, the Inter-American Press Association (IAPA) reported that members of the police and military had subjected journalists to arbitrary treatment in the departments of Antioquia, Arauca,

and Cesar, as well as the city of Bogota. On April 7, hired paramilitaries murdered watchdog radio journalist Jose Emeterio Rivas, who had publicly accused Julio Cesar Ardila, mayor of Barrancabermeja, Santander department, of granting lucrative municipal contracts to paramilitaries on preferential terms. On July 16, prosecutors charged Ardila and three city councilmen with ordering the murder. On September 18, Ardila, who had been in hiding, surrendered to the authorities. On December 31, he was released for lack of evidence.

During the year, journalists were intimidated, threatened, kidnapped, and killed by members of illegal armed groups. According to information gathered by the International Federation of Journalists and the Colombia Foundation for Press Freedom, 7 media representatives were killed, 11 kidnapped, and at least 55 threatened with death during the year.

Paramilitaries threatened, kidnapped, and murdered journalists. For example, in October, paramilitaries threatened newspaper correspondents Yaneth Montoya and Pedro Javier Galvis with death if they did not leave the city of Barrancabermeja, Santander department. Both left the city within 1 week of receiving the threats. On March 12, near the town of Victoria, Tolima department, police rescued broadcast journalist Pedro Cardenas from six paramilitaries who had kidnapped him 45 minutes earlier. On the morning of March 18, paramilitary gunmen murdered newspaper correspondent and local radio station reporter Luis Eduardo Alfonso as he arrived at work in Arauca City, Arauca department. Alfonso's former employer at the radio station, Efrain Varela, had been murdered by paramilitaries in June 2002.

In mid-December, prosecutors asked a presiding judge to impose the maximum sentence on AUC leader Carlos Castano and two other paramilitaries for their roles in the 1999 murder of prominent journalist Jaime Garzon. Castano had been tried in absentia. No verdict had been announced by the end of the year.

In May, the Valledupar Criminal Appeals Court overturned "not guilty" verdicts issued in January 2002 in favor of two paramilitaries accused of the 1999 murder of newspaper editor Guzman Quintero in Valledupar, Cesar department. The court imposed sentences of 39 years in prison on both suspects.

Guerrillas also threatened, kidnapped, and murdered journalists. For example, in March, the FARC made public a list of 16 journalists that it ordered to leave the department of Arauca on pain of death. All 16 left the department, leaving local media outlets to broadcast only cultural and musical programming. On January 21, the ELN kidnapped two Los Angeles Times journalists in Arauca department, allegedly for traveling in the region without its authorization. The ELN released the two on February 1. In August, the FARC kidnapped print journalist Jinet Bedoya in rural Guaviare department, releasing her after 5 days in captivity. Bedoya had been kidnapped and raped by paramilitaries in 2000. On August 23, FARC guerrillas killed radio journalist Juan Carlos Benavides when he failed to stop at a guerrilla roadblock outside Puerto Asis, Putumayo department.

The International Federation of Journalists operates an office in Bogota to monitor violence against the media and provide assistance to local journalists. The IAPA also runs its own rapid action unit in Bogota to help the Prosecutor General's Office investigate crimes against journalists. The Ministry of Interior operated a program for the protection of journalists that provided protection to 71 media representatives during the year. 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.

The Government did not ban, restrict, or censor books, other publications, films, art exhibits, music, plays, or other cultural activities. 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 to generate political support for their respective causes and undermine support for their adversaries through both violent and nonviolent means. Paramilitaries, for example, threatened university professors and students they suspected of leftist sympathies. For example, in April, paramilitaries clandestinely distributed flyers on the campus of Francisco de Paula Santander University, in Cucuta, Norte de Santander department, that announced a social cleansing campaign targeting guerrilla sympathizers at the school.

Guerrillas used university campuses to plan, prepare, and carry out terrorist attacks. On March 4, for example, police discovered 80 homemade explosive devices and a supply of ANFO—an explosive mix of ammonium nitrate and fuel oil—hidden in the biology lab of Bogota's Pedagogic University. On March 11, two medical students from the National University in Bogota detonated incendiary devices on Bogota's principal public bus system; investigators found guerrilla propaganda and other evidence at the students' residence connecting them to illegal student organizations

linked to FARC urban militias. On April 29, the Prosecutor General's Office arrested and charged a FARC recruiter with coordinating the attacks and providing the students with explosives training.

Both paramilitaries and guerrillas regularly threatened and murdered public school teachers, especially at the high school level. According to the National Teacher's Union (FECODE), 33 teachers were murdered, 2 forcibly disappeared, and 91 displaced during the first 9 months of the year. Paramilitaries were responsible for most of these abuses. For example, on January 13, paramilitaries murdered Jose Marcelino Diaz, a teacher and FECODE organizer in Arauca City, Arauca department, and on March 12 murdered Soraya Patricia Diaz, a teacher from the town of Quinchia, Risaralda department. Guerrillas also murdered teachers. On April 22, in Corcora municipality, Antioquia department, ELN guerrillas kidnapped local teacher Ana Cecilia Duque, demanding that her father kill a local paramilitary leader to secure her release. When Duque's father refused, the ELN executed her.

On September 17, the army captured four paramilitaries suspected of killing a teacher in Cauca department. On July 21, police in Atlantico department captured Leonidas Ricardo Reyes, the AUC Southern Bloc's third-in-command, who was suspected of murdering several teachers and a student in Magdalena department.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics. 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 permits except when 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 August 12, more than 500,000 public employees throughout the country went on strike and held large marches in major cities to protest Government-proposed budget cuts and free trade policies. The protest was generally peaceful; however, isolated protestors in Bogota's Plaza Bolivar threw rocks at police, who responded with tear gas. Following the October elections, accusations of fraud, vote buying, and other irregularities in a handful of regional elections sparked protests in several departments. In Malambo, Atlantico department, police had to transport ballots in an armored vehicle to prevent protestors from burning them.

The Constitution provides for freedom of association. 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, 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 had acceded to the agreement, the Government had not given a similar opportunity to hundreds of other mostly small, evangelical churches that received legal recognition after 1997.

Protestant churches complained that new zoning laws show de facto favoritism toward Roman Catholicism, since most Roman Catholic cathedrals were constructed before zoning laws were instituted and are therefore exempt from the laws' requirements.

Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons. The Presidential Program for Human Rights reported that illegal armed groups made numerous threats against priests and other religious workers, killed 7 priests, and kidnapped 3 others. On February 10, for example, paramilitaries issued menacing statements against Catholic priest Francisco de Roux, Director of the Middle Magdalena Peace and Development Plan, who had publicly criticized paramilitaries and spoken out in favor of a possible humanitarian prisoner exchange between the Government and the FARC. On February 17, the FARC kidnapped a priest who was celebrating Mass on the outskirts of the town of Calvario, Meta department. On November 21, the body of Father Jose Rubin Rodriguez, who had been



kidnapped a week earlier by armed men identifying themselves as guerrillas, was found in Tame, Arauca department.

On October 29, the criminal trial of FARC commander John Fredy Jimenez and hired gunman Alexander de Jesus Zapata began for the March 2002 murder of Roman Catholic Archbishop of Cali Isaias Duarte (see Section 1.e.).

According to the Evangelical Council of Churches (CEDECOL) and Colombian NGO Justapaz, 40 evangelical church leaders were assassinated during the year, most by the FARC. The FARC inhibited the right to free religious expression in areas it controlled, forcing the closure of hundreds of evangelical churches, particularly in the southwestern part of the country. In September, the FARC Secretariat ordered unit commanders to target evangelical pastors because of their alleged undercover work for the Government and foreign intelligence services.

On May 8, unidentified assailants wearing camouflage uniforms picked out and beheaded four members of a Protestant congregation in Tierralta, Cordoba department. The victims included the pastor, the church treasurer, an 80-year-old woman, and a teenage boy.

The Human Rights Unit of the Prosecutor General's Office reported that it was investigating 31 crimes that it believed were religiously motivated.

For a more detailed discussion, see the 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to travel domestically and abroad, and the Government generally respected this right in practice; however, there were exceptions. In areas where counterinsurgency operations were underway, police and military officials sometimes imposed curfews or required civilians to obtain safe-conduct passes. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways cut kidnappings at illegal checkpoints by 43 percent and led to a major increase in intercity vehicular traffic.

The Social Solidarity Network (RSS), the Government's displaced persons service agency, registered nearly 173,000 new displaced persons during the year, a decrease of 46 percent from 2002. The Consultancy for Human Rights and Displacement (CODHES), a human rights NGO specializing in displacement issues (see Section 4), estimated that 230,000 persons were displaced during the year, a 49 percent decrease from CODHES's figures for 2002. Various explanations were advanced to explain the sharp decline in displacements. The Government pointed to a larger state security presence throughout the country and a decrease in paramilitary violence related to the Government's ongoing negotiations with the country's largest paramilitary organization. CODHES and other NGOs asserted that instead of displacing peasants, paramilitaries and guerrillas were now forcibly preventing displacements.

The RSS had registered more than 1,200,000 displaced persons since 1995; UNHCR estimated there were over 2 million displaced persons in the country, placing it third among countries with the largest IDP populations. Precise numbers of IDPs were difficult to obtain, however, since some persons were displaced more than once and many did not register with the Government or NGOs. The FARC and ELN discouraged IDPs from registering with the Government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among the displaced population. The vast majority of IDPs were rural peasants who were displaced to large cities such as Bogota. According to the UNHCHR, 25 percent of IDPs were indigenous or Afro-Colombian.

Although some persons voluntarily displaced for economic reasons, most IDPs were forcibly displaced by paramilitaries or guerrillas, who used forced displacement to gain control over strategic or economically valuable territory and weaken their opponents' base of support.

The Government was unable to provide sufficient humanitarian assistance to the displaced, despite statutes and court rulings requiring it to do so. Many IDPs lived in unhygienic conditions with little access to health care and educational or employment opportunities. Government assistance for the displaced was provided principally through the Social Solidarity Network (RSS), the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. However, the ICRC and various NGOs provided most humanitarian assistance to the displaced, who generally received assistance for only 90 days. In May, the UNHCR and the Government reached agreement on a program to help refugees and IDPs. Under the terms of the agreement, the UNHCR will work with the Senate and its human rights commission on promoting and implementing legislation to help the displaced.

In April, the Government of Panama forcibly repatriated 109 refugees to the Uraba region of Antioquia department, claiming the refugees had ties to the FARC. UNHCR monitored the repatriation and provided humanitarian assistance. In De-

ember, the Government cooperated with the Government of Panama in repatriating 84 refugees to the town of Jurado, Choco department. Unlike the April repatriation, December's cooperative effort was well managed and complied fully with international standards.

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. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The country has a tradition of providing asylum dating from the 1920s. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the U.S. Committee for Refugees, 217 recognized refugees resided in the country at the end of the year. Eighteen persons applied for asylum during the year; 12 were approved, 4 rejected, and 2 were under review, along with 11 applications still pending from 2002.

*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 generally free and fair elections held on the basis of nearly universal suffrage. However, active duty members of the Armed Forces and Police may not vote, and civilian public employees, although eligible to vote, are not allowed to participate in partisan politics.

Congressional and presidential elections were last held in March and May 2002, respectively. In March 2002, voters elected a bicameral legislature with a mix of independents and members of the traditional Liberal and Conservative parties. In May 2002, voters elected independent candidate 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.

Political parties generally operated freely and without government interference. Parties that fail to garner 50,000 votes in a general election are automatically dissolved, but can reincorporate at any time by presenting 50,000 signatures to the National Electoral Commission (CNE). The Liberal and Conservative parties have long dominated politics, but the election of President Uribe as an independent in 2002 and the success of center-left candidates in regional elections suggested the political arena was widening. In August, representatives of several small, center-left parties created the larger Independent Democratic Pole (PDI) party.

On October 25, 14 of 15 items on a major political and economic reform referendum failed when turnout fell short of the required 25 percent of registered voters. On October 26, voters in 32 departments, the national capital, and 1,096 municipalities elected governors, mayors, and city council members. Center-left candidates fared well in the elections, winning, among other posts, the governorship of Valle del Cauca department and the mayor's office in Bogota. The elections were generally free and fair, despite attempts by paramilitaries and guerrillas to interfere. However, elections were not held in two rural municipalities in Vaupes department because of threats and violence by the FARC.

Paramilitaries attempted to influence local and regional elections through intimidation and violence. In some areas, paramilitary threats forced selected candidates to withdraw from key races. For example, in Cesar department, where the AUC has significant influence, a single gubernatorial candidate ran unopposed; nearly half those who voted submitted blank ballots in protest. In regions where paramilitaries exercised less political influence, they attempted to affect the elections by attacking candidates they opposed. For example, on June 5, four paramilitary gunmen killed Norte de Santander gubernatorial candidate and former National Peace Council member Tirso Velez.

As it did prior to the 2002 national elections, the FARC conducted a systematic campaign of violence to disrupt and discredit the referendum and local and regional elections. According to the Presidential Program for Human Rights, 29 candidates for regional offices were murdered during the year, and 8 were kidnapped. The FARC committed most of these crimes. For example, on August 30, FARC gunmen murdered Afro-Colombian mayoral candidate Jose Luciano Castillo in Roberto Payan municipality, Narino department. On October 19, the FARC killed Mario de Jesus Cordona, a mayoral candidate in the town of Chaparral, Tolima department. FARC threats led at least 160 candidates to drop out of the elections completely. For example, on October 18, 22 candidates for local offices in the town of Hacari, Norte de Santander department, resigned after receiving specific threats from the FARC.

The FARC also continued to threaten and commit acts of violence against incumbent government officials. The assassination of President Uribe remained a FARC priority. Military and judicial officials believed, for example, that a large cache of explosives detonated during a police raid on a house near the municipal airport in Nevia, Huila department, was intended to be used to attack the President when he arrived at the airport the following day. Although the perpetrators of 60 percent of the murders of local officials were still unknown at the end of the year, the FARC was responsible for at least 30 percent of these crimes. Nine mayors and 75 city council members were murdered during the year. Scores of local officials from throughout the country resigned because of threats from the FARC. For example, on March 31, three mayors from Norte de Santander department resigned because of specific FARC threats. The Office of the Human Rights Ombudsman reported that at least 300 mayors conducted business from regional capitals via telephone and messenger because they were not safe in their own towns.

The FARC continued to hold politicians hostage to pressure the Government into a prisoner exchange (see Section 1.b.).

There are no legal and few practical restrictions on the participation of women and minorities in politics. There were 5 women—including the Minister of Foreign Affairs—in the 13-member cabinet, 11 women in the 102-member Senate, and 18 women in the 166-member House of Representatives. There were 2 women on the 23-member Supreme Court, 2 women on the 13-member Supreme Council of the Judiciary (CSJ), and 1 woman on the 9-member Constitutional Court. On October 2, Clara Inez Vargas began a 10-month term as the Constitutional Court's first female president.

A quota law requires that women be placed in at least 30 percent of nominated government posts, and the government must report to Congress each year on the percentage of women in high-level government positions.

There were 4 indigenous Senators, two of whom occupied seats reserved for indigenous persons, and 2 indigenous members of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There was 1 Afro-Colombian Senator and there were 3 Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts.

#### *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 opinions on human rights conditions in the country.

Over 60,000 human rights and civil society NGOs were registered in the country, although most existed only on paper. The most prominent domestic human rights NGOs included the Colombian Commission of Jurists (CCJ) and Jose Alvear Restrepo Lawyers' Collective, 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; 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; 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-kidnapping efforts. The Truth for Colombia ("Verdad Colombia") group was a relatively new association of small, centrist human rights NGOs that generally supported the Government's anti-terrorism security policies.

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.

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. Local NGOs' emphasis on the negative frustrated Government officials whose own statistics indicated the human rights situation was improving. These drastically divergent understandings of the human rights situation deepened already profound mutual suspicions.

On September 9, in a nationally televised speech, President Uribe harshly criticized unspecified NGOs for masking a political—and even terrorist—agenda behind the shield of defending human rights. Human rights groups reacted strongly to the President's criticisms, noting that accusations of guerrilla collaboration could expose them to violent reprisals. Uribe's remarks were spurred by release of "The Authoritarian Spell", a report compiled by a group of approximately 80 NGOs, including some of the country's most prominent, that was highly critical of the Government's human rights performance. The report asserted that there had been a dramatic rise in what it defined as "grave violations of human rights" during the first year of Uribe's presidency.

The President's criticism of NGOs laid bare a fundamental controversy over the nature and accuracy of human rights statistics in Colombia. Government and NGO statistics on human rights often differed dramatically. Some of these discrepancies could be explained by differences in terminology and methodology. For example, the Government defined a massacre as the intentional killing of four or more persons at the same time and place, while NGOs defined a massacre as the deaths of three or more persons. CINEP strictly followed legal conventions that define "human rights violations" as crimes that can only be committed by the state or state-sponsored actors, which led it to attribute, directly or indirectly, all "human rights violations" to the Government. The Government, on the other hand, defined human rights violations to encompass crimes by all illegal armed groups, whether paramilitaries or guerrillas, as well as the state. The Government based its data on information reported to government authorities, supplemented by press reports and confirmable NGO statistics. NGOs, on the other hand, relied primarily on citizen complaints and press reports that satisfied the particular NGOs own standard of credibility. The Government's reliance on official reports undoubtedly led to an underreporting of violations. NGO statistics, on the other hand, undoubtedly overreported violations, since they relied heavily on unsubstantiated claims.

In a September 30 speech before the United Nations, President Uribe, while not retracting his September 9 criticisms, expressed his respect for the work of impartial human rights activists. However, the Government reserved the right to challenge reports considered biased.

Although the Government generally did not interfere with the work of domestic human rights NGOs, some NGOs claimed that the Government arrested human rights activists arbitrarily, particularly in highly conflictive areas (see Section 1.d.).

The Government asserted that many self-declared "human rights" activists were actually engaged in criminal activities that supported terrorism. For example, on October 21, authorities arrested Ramon del Carmen Garces, president of the Arauca departmental assembly and director of a local human rights NGO, for allegedly diverting \$370,000 (1 billion pesos) in government assistance from his NGO to the ELN. On August 1, authorities arrested human rights activist Maria Teresa Cedeno for allegedly bribing a demobilized guerrilla to retract testimony that had led to the conviction of five FARC guerrillas for a car bombing in October 2002.

On September 9, the Prosecutor General's Office indicted five police officers in Medellin for the alleged illegal wiretapping of NGO phone lines between 1997 and 2000. Separately, the Inspector General's Office ordered the dismissal of Colonel Mauricio Santoyo, then-commander of the police unit responsible for the illegal wiretapping (see Section 1.f.).

The Government, through the Ministry of Interior and Justice and the DAS, allocated approximately \$ 14,100,000 (36.65 billion pesos) to its program for the protection of human rights activists and other vulnerable populations. The Government provided protection to over 3,000 human rights activists during the year and bulletproofed 15 additional offices and residences. Requests for protection increased by 7 percent, a significant decline from the 106 percent increase registered in 2002. Nevertheless, human rights groups continued to complain that the protection program was inadequate.

According to the CCJ, 16 human rights activists were killed during the year. The CCJ attributed most of these killings to paramilitaries. In October, for example, leaders of the paramilitary Central Bolivar Bloc released a public letter accusing re-

gional NGOs of acting as mouthpieces for leftist guerrillas. On October 17, paramilitary gunmen murdered Esperanza Amaris Miranda, a human rights activist with the Popular Women's Organization (OFP), one of the groups mentioned in the letter. On May 2, paramilitaries also tortured and murdered Henry Campos, son of OFP activist Maria Emma Garzon.

The Prosecutor General's Office reported little progress in its investigation of the November 2002 murder of Jose Rusbell, a member of the Joel Sierra Human Rights Committee in Arauca department.

On December 19, four armed men entered the offices of "La Corporacion Casa de la Mujer", a well-known feminist organization, and stole computer drives containing contact lists, financial information, project descriptions, and the identity of national and international organizations the organization worked with. There were no suspects in the robbery at the end of the year.

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. These international delegations sometimes received active Government protection. The larger international NGOs, such as AI, Human Rights Watch, 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 high levels of impunity and failure to completely sever links between the military and paramilitaries.

The Government cooperated with international governmental organizations. The United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations High Commissioner for Human Rights (UNHCHR), and the International Committee of the Red Cross (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 later added field offices in Cali and Medellin and was in the process of establishing an office in Bucaramanga, Santander department. The office monitored and analyzed the national human rights situation and provided advice and assistance on human rights protection. In 2002, President Uribe extended UNHCHR's mandate in the country through the end of his administration in 2006.

In its human rights report for 2002, published in March, the Colombia office of the UNHCHR made 27 recommendations for improving the human rights situation in Colombia. Twenty-four of the recommendations were directed at the Government. At an international donor's conference held in London on July 10, the Government, while expressing some reservations, endorsed the recommendations in principle. The UNHCHR and local NGOs reported that the Government had not fully complied with most of the recommendations by the end of the year.

The National Human Rights Ombudsman ("Defensor del Pueblo"), who reports to the Inspector General (see Section 1.e.), is elected by the House of Representatives from a list of three candidates submitted by the President to serve a 4-year term overlapping those of two presidents. The Office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defenders for the indigent (see Section 1.e.), the Ombudsman's 34 regional offices served as a channel for complaints of human rights violations. The Ombudsman's Bogota Office was the headquarters of a national Early Warning System (SAT) designed to alert public security forces to impending human rights violations, particularly large-scale massacres.

During the year, then-Ombudsman Eduardo Cifuentes resigned his post. President Uribe appointed Volmar Antonio Perez to fill the position until August 2004, when the House of Representatives will select a new Ombudsman. While in office, 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. In his caretaker role, Perez was a less public figure. However, the office, with international assistance, continued to provide training to regional ombudsmen and conducted public education on human rights. Despite the Office'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.

In their role as human rights defenders, regional ombudsmen were under constant threat from illegal armed groups. Four paramilitaries remained on trial for the 2001 murder of regional human rights ombudsman Ivan Villamizar, in Cucuta,

Norte de Santander department. An arrest warrant was outstanding for AUC leader Carlos Castano for his alleged involvement in the crime (see Section 1.a.).

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

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions were not enforced

*Women.*—The law prohibits domestic violence, including spousal abuse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 22,271 cases of domestic violence against women during the year, but noted that only a small percentage of cases of domestic violence against women were brought to its attention. The law provides legal recourse for victims of domestic violence. Judicial authorities may remove an abuser from the household and oblige him to seek therapy or reeducation. According to the Ministry of Justice and Interior, 1,290 persons were criminally charged for domestic violence during the year; 256 were convicted. The law stipulates that the Government must provide victims of domestic violence with immediate protection from physical or psychological abuse. Through its “Make Peace” program, the Colombian Family Welfare Institute (ICBF) provided safe houses and counseling for victims; however, its services were dwarfed by the magnitude of the problem. In addition to fulfilling traditional family counseling functions, the ICBF’s 531 family ombudsman were assigned a total of 18,686 new domestic violence cases through September. The Human Rights Ombudsman’s Office conducted regional training workshops to promote the application of domestic violence statutes.

The law prohibits rape and other forms of sexual violence, including by a spouse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 8,666 cases of suspected sex crimes, including rape, but noted that, like cases of domestic violence, only a small percentage of such crimes came to its attention. The Penal Code provides for sentences of between 4 and 40 years for crimes against sexual freedom and human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The maximum sentence for violent sexual assault is 15 years; the minimum sentence is 8. 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. The ICBF provided support to victims of sexual violence.

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, especially in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts 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 authorities to ensure “adequate and effective participation by women at decision making levels of public administration. However, discrimination against women persisted. 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 21.5 percent, 6.4 percent higher than the rate for men. According to the U.N., women earned an average of 34 percent less than men during the year. 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 train them in parenting skills, women’s groups reported that single mothers continued to face serious economic and social problems. According to a 1997 Constitutional Court ruling, a woman’s decision to bear a child cannot be considered just cause for firing her if she is pregnant or the mother of a child under 3 months of age. There were no published reports of such firings during the year.

*Children.*—The Constitution imposes an obligation on the family, society, and the state to protect children, foster their development, and ensure their ability to fully exercise their rights; however, these obligations were not completely fulfilled. The Children’s Code describes these rights and establishes the services and programs designed to enforce the protection of minors. The ICBF oversees all Government child protection and welfare programs and also funds nongovernmental programs that benefit children.

The Constitution stipulates that the state must provide a free public education for children between the ages of 6 and 15; however, the National Department of Statistics (DANE) estimated that only 75 percent of children between 6 and 15 attended school. By law, a primary education is universal, compulsory, and free. The Government covered the basic costs of primary education, although many families faced additional expenses such as matriculation fees, books, school supplies and transportation costs that were often prohibitive, especially for the rural poor.

The law requires the Government to provide medical care to children. However, medical facilities were not universally available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 7,844 cases of child abuse during the year. According to the Association Against Child Abuse, less than 5 percent of child abuse cases are reported to government authorities. Although final statistics were unavailable for the year, the National Institute for Legal Medicine and Forensic Sciences estimated that of the 8,666 cases of suspected sex crimes reported to it, 70 to 80 percent involved the sexual abuse of children, the vast majority under them under 14. The ICBF estimated that 25,000 children were victims of sexual exploitation, and provided assistance, both directly and through other specialized agencies, to over 14,400 of them during the year.

According to UNICEF, an estimated 35,000 adolescents worked as prostitutes, in spite of legislation prohibiting sex with minors and the employment of minors for prostitution. The ICBF provided assistance to 6,200 of the country's estimated 30,000 street children. Children were also trafficked for sexual exploitation (see Section 6.f.).

Since 1999, persons under 18 are prohibited from serving in the public security forces. However, both paramilitaries and guerrillas used child soldiers. In September, HRW released a comprehensive study on child soldiers in Colombia that reported that approximately 11,000 children were members of illegal armed groups; UNICEF reported that the number was as high as 14,000. Both paramilitaries and guerrillas forcibly recruited minors as combatants. For example, in April, a captured child soldier from the FARC described how he was coerced into joining the guerrillas by a FARC recruiter who gave him food for his family and later insisted that the teenager either repay him or join the insurgency.

Paramilitary groups released some child soldiers as a sign of good faith in anticipation of demobilization negotiations with the Government (see Section 1.g.). On June 27, security forces in Sucre department captured retired Army Sergeant Omer Eligio Gonzalez, who was in charge of recruiting minors for paramilitaries.

Although many minors were forcibly recruited, a 2002 study by UNICEF 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 October 29, at least 301 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 725 children during the year.

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

According to UNHCR, 74 percent of all internally displaced persons were women and children (see Section 2.d.). The Human Rights Ombudsman's Office estimated that only 15 percent of displaced children attended school. Displaced children were especially vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

*Persons with Disabilities.*—The Constitution enumerates the fundamental social, economic, and cultural rights of persons with physical disabilities. However, serious practical impediments prevented their full realization of these rights. For example, there is no legal requirement 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 request it. The Court also ruled that the social security fund for public employees cannot refuse to provide services for children with disabilities, regardless of the costs involved.

*Indigenous People.*—The Constitution gives special recognition to the fundamental rights of indigenous persons, who make up approximately 2 percent of the population.

By law, indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 545 reservations as municipal entities, with officials selected according to indigenous traditions. However, approximately 200 indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute (INCORA) administered a program to buy back lands declared to belong to indigenous communities. In March, the U'wa tribe said it would resume protests of exploration and drilling on lands it considers sacred near the U'wa reservation in Arauca department.

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.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous persons. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous persons continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal conflict. According to the Presidential Program for Human Rights, 164 indigenous persons were killed during the year, 75 by paramilitaries, 18 by the FARC, and 8 by the ELN. The UNHCHR strongly criticized threats and violence against indigenous communities and characterized government investigations of human rights violations against indigenous groups as inadequate. The National Organization of Indigenous Persons (ONIC) reported many incidents in which illegal armed groups forcibly recruited indigenous persons, restricted indigenous persons' freedom of movement, blockaded indigenous communities, or accused indigenous persons of sympathizing with their adversaries.

*National/Racial/Ethnic Minorities.*—Approximately 22 percent of the population was of African origin. Afro-Colombians are entitled to all constitutional rights and protections; however, they faced significant economic and social discrimination. Seventy-four percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience 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. In July, the Prosecutor General's Office indicted 3 army generals for alleged dereliction of their duty to protect civilians, which contributed to the deaths of 119 Afro-Colombians during a FARC attack on the town of Bojaya in May 2002.

Little concrete progress was made on implementing a 1993 law designed to benefit Afro-Colombians by expanding public services and private investments in predominantly Afro-Colombian regions. The 1993 law also specifies that Afro-Colombian communities should receive collective titles to some Pacific coastal lands. However, Afro-Colombian leaders complained that the Government was slow to issue land titles and that access to these lands was often inhibited by the presence of paramilitaries and guerrillas.

#### *Section 6. Workers 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, and the number of unions and union members continued to decline. According to the National Labor College (ENS), a Medellin-based NGO that collects, studies, and consolidates information on organized labor, there were 2,357 unions registered in the country at the end of the year, with a total of 856,099 members, or approximately 4 percent of the labor force.

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, this process is slow and sometimes takes years. Unions are legally authorized to determine their internal rules, elect their own officials, and manage their own activities. The law penalizes interference with freedom



of association and forbids the dissolution of trade unions by administrative fiat. Although government interference in union activities is limited, the Government can 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 targets of attacks by illegal armed groups. According to the ENS, 6 union members were kidnapped, 4 disappeared, 295 were threatened with death, 20 survived attempts on their lives, and 80 were killed in 2003. By comparison, 161 union members were killed in 2002. In the case of over 82 percent of murders of trade union members, the ENS was unable to determine which illegal armed group was responsible. Based on available information, the ENS attributed 15 percent of these crimes to paramilitaries. The United Workers Central (CUT), the country's largest and most left-leaning labor federation, claimed that paramilitaries were responsible for 77 percent of the murders of trade union members through September and that paramilitaries were especially aggressive in targeting members of the CUT. For example, on April 9, alleged paramilitaries murdered Ivan Manuel Muniz in Riohacha, La Guajira department. Muniz was a local leader of the national teachers union, FECODE, a CUT affiliate. On July 15, alleged paramilitaries shot and killed Marco Tulio Diaz, a labor activist with the CUT-affiliated National Oil Workers Union, USO, in Cucuta, Norte de Santander department; paramilitaries have long accused USO of being a civilian arm of the ELN.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. There were few successful prosecutions of crimes against trade union members. However, on December 19, former army major Cesar Alonso Maldonado and paramilitary Regulo Rueda were convicted and received 28 years in prison for their roles in the December 2000 attempted murder of labor leader and current member of Congress Wilson Borja. Arrests were made in other important cases. For example, three Army NCOs were arrested for their alleged involvement in the September murder of Wilson Rafael Pelufo, a union activist in Barranquilla, Atlantico department. The Prosecutor General's Office continued to investigate paramilitaries for crimes against union leaders committed in previous years, such as the 2001 murders of Valmore Locarno, Victor Hugo Orcasita, and Gustavo Soler, activists with mine workers union SINTRAMINERGETICA.

High levels of impunity led some labor organizations to file civil suits against the alleged authors of paramilitary anti-labor violence. For example, in March, SINTRAMINERGETICA filed suit in a foreign court against the Drummond Company, which operates a large coal mine in Cesar department. The suit alleged that the company ordered or acquiesced in local paramilitaries' murders of three union activists. In April, a foreign court ruled that Panamerican Beverages, Coca-Cola's main bottler in Latin America, could be sued for allegedly hiring paramilitaries to kill and intimidate union leaders at several of its bottling plants; the court dismissed a similar lawsuit against the Coca-Cola Company.

Due to a lack of conclusive evidence, the ENS attributed only two murders of trade unionists to guerrillas. In one example, the ELN murdered an Antioquia teachers union member (see Section 2.a.).

During the year, the Government announced the establishment of an Inter-Institutional Commission for the Promotion and Protection of Worker's Human Rights. The Commission's work plan was negotiated with the country's principal labor federations. The Commission is charged with preventing human rights violations against union members and promoting and protecting freedom of association, collective bargaining, and the right to strike. In July, President Uribe called for the police, the justice system, and the public to afford union leaders better protection. The President said that unions are moral reference points necessary for the smooth functioning of communities.

To improve the security of particularly vulnerable union leaders, the Government increased resources devoted to the Ministry of Interior and Justice's protection program for trade union leaders. During the year, the program secured 30 union headquarters and residences and provided protection to 1,424 union members and activists, some of whom owed it their lives. For example, on August 22, Juan Carlos Galvis, president of beverage workers union SINALTRAINAL in Barrancabermeja, Santander department, survived an attempt on his life because the protection program had provided him with an armored car and personal bodyguards. Although trade union leaders acknowledged the benefits of the program, they still complained that its resources were insufficient to adequately protect the large number of trade

unionists under threat. The Executive Council of the CUT also complained that labor unions were not given an adequate voice in the administration of the program.

At the May meeting of the ILO's Committee on Freedom of Association, the body dropped a recommendation that the ILO Governing Body appoint a Fact-Finding and Conciliation Commission for the country. In June, the ILO's Governing Body rejected labor unions' request for a Commission of Inquiry, but did urge the Government "to put an end to the intolerable situation of impunity and to punish effectively all those responsible."

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 trade once 6 months have passed following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the Government's power 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.

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 workers' right to organize. Workers in large firms and public services were the most successful in organizing, but they represented only a small percentage of the workforce. High unemployment, a large informal economic sector, traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult.

The Constitution provides for the right to collective bargaining. Consistent with the decline in union membership, however, the number of workers covered by collective bargaining agreements fell. According to the ENS, 176,774 workers were employed under collective bargaining agreements during 2002, compared to 409,918 during the period 1994–1995. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. Paramilitaries threatened—and sometimes killed—union members who refused to renounce collective bargaining agreements.

Collective pacts between individual workers and their employers are not subject to collective bargaining and were used by employers to complicate and discourage labor organization. However, these practices did effectively complicate and discourage labor organization. Although employers must register collective pacts with the Ministry of Social Protection, the Government does not exercise oversight or control over them. There is no mandatory mediation in private labor-management disputes.

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, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. Legislation that prohibits public employees from striking is still in effect, although it is often 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.

Various high profile strikes occurred during the year. For example, on January 16, the National Oil Workers Union (USO) called a 1-day strike to protest the arrest of former USO President Hernando Hernandez, who was accused of rebellion and subversion for alleged ties to the ELN. On February 21, after USO protestors began destroying company property at a refinery in Barrancabermeja, police and soldiers broke up the protest with tear gas and clubs, wounding 9 persons and arresting 15 others. On June 19, the country's 3 principal labor federations called a national work stoppage to protest a restructuring of three parastatal corporations that was expected to eliminate 40,000 jobs.

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 compulsory labor, and this protection generally was enforced by the Government and respected in practice in the formal sector.

Paramilitaries and guerrillas practiced forced conscription (see Section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside full government control (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits the employment of children under 14 in most occupations, and the Labor Code prohibits the granting of work permits to children under 18; how-

ever, 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. A National Committee for the Eradication of Child Labor, which included officials from the Ministries of Social Protection, Education, and Communications, as well as representatives of unions, employer associations, and NGOs, implemented the Government's Action Plan to Eradicate Child Labor. The Action Plan includes specific goals and strategies to protect children by updating information on child labor, strengthening the education system, and actively searching for child workers and removing them from the workplace.

The 1989 decree that established the Minors Code prohibits the employment of children under 12. It also requires exceptional conditions and the express authorization of the Labor Ministry to employ children between 12 and 17. Children under 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 a maximum of 6 hours a day, and children ages 16 and 17 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.

According to a recent report released by parastatal company *Mineros de Colombia* (MINERCOL), between 200,000 and 400,000 children worked in illegal gold, clay, coal, emerald, limestone and other mining operations. Children also worked extensively in agriculture, both on subsistence family farms and in larger, export-oriented industries such as flower cultivation. According to DANE, approximately 200,000 children worked as coca pickers or in other aspects of the illegal drug trade. The legal minimum age of 14 was inconsistent with completing a basic education, and only 38 percent of working children attended school.

The legal definitions of "worst forms of child labor" and "hazardous work" are consistent with ILO convention 182 and do not exempt specific sectors.

Although there were no reports 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), prostitutes (see section 5), or coca pickers. The Minors Code provides for fines ranging from 1 to 40 minimum monthly salaries for violations of child labor laws. If a violation is deemed to have endangered a child's life or threatened his or her moral values, sanctions can also include the temporary or permanent closure of the guilty establishment. In the formal sector, the Ministry of Social Protection enforced child labor laws through periodic inspections.

The Ministry had inspectors in each of the country's 32 departments and the national capital, 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 National Committee for the Eradication of Child Labor conducted training on legislation and enforcement for approximately 600 public officials in 7 departments and created an information system on child labor to better measure and understand the problem. The Government, the major labor federations, and media representatives published articles, broadcasted documentaries, and launched other outreach programs to delegitimize child labor. UNICEF continued a program to encourage children to leave the workforce and return to school. An ILO pilot project removed nearly 3,000 child workers from dangerous jobs in low-tech, open-pit mines in the municipalities of Muzo and Sogamoso, Boyaca department, and Nemocon, Cundinamarca department.

*e. Acceptable Conditions of Work.*—The Government sets a uniform minimum wage every January that serves 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 \$117 (332,000 pesos). Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation. The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Social Protection estimated 17 percent of all workers received salaries below the poverty line. 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.

Colombia's labor code provides for a regular workday of 8 hours and a regular workweek of 48 hours. The code stipulates that workers are entitled to receive premium compensation for additional hours worked and for work performed on Sun-

days. A major labor reform bill, passed in December 2002, reduced the amount of overtime pay and monetary compensation for workers who are fired unjustly, and gave employers greater flexibility in devising work schedules by lengthening the period of "day work" by 4 hours, from 6 a.m. to 10 p.m. Colombian law requires employers to provide premium pay for work performed outside these hours. The law also created the country's first unemployment benefits program, which provides unemployed workers with benefits for 6 months.

Legislation provides comprehensive protection for workers' occupational safety and health, which the Ministry of Social Protection attempted to enforce through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. The Social Security Institute reported 202,090 work-related accidents through the first 9 months of the year, resulting in 547 deaths. Workers in the informal sector sometimes suffered physical or sexual abuse.

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, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however it remained a problem.

The Criminal Code provides 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, limited resources hindered prosecutions.

A Government advisory committee composed of representatives of the Presidency, the Ministry of Foreign Affairs, the Ministry of Interior and Justice, the DAS, the Office of the Inspector General, the Office of the Prosecutor General, and Interpol 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 trafficked to other countries, Government foreign missions provided legal aid and social welfare assistance. Colombia was a source country for trafficking in persons, primarily for sexual purposes and principally to Europe and Asia. Countries with large numbers of victims included Spain, the Netherlands, and Japan. Victims were also trafficked to the United States and other Latin American countries. According to the DAS, Colombia was the second most common country of origin for trafficking victims in the Western Hemisphere, with an estimated 45,000 to 50,000 victims overseas. The vast majority of trafficking victims were young women, although children and young men were also at risk. Female trafficking victims were a high risk for sexually transmitted diseases, unwanted pregnancies, and forced abortions.

Many traffickers were honest about the sexual nature of the work they offered, but lied about working conditions, clientele, and compensation. Others disguised their intent by 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. Most traffickers were well-organized and linked to narcotics or other criminal organizations.

The International Organization for Migration (IOM) strengthened government institutions involved in anti-trafficking efforts and assisted trafficking victims. Specifically, the IOM trained 1,610 officials in 18 regional departments on trafficking issues, provided victims with job training and employment opportunities, and helped victims obtain necessary medical care. The Hope Foundation ("Fundacion Esperanza"), an anti-trafficking NGO, also provided educational information, social support, and counseling to trafficking victims.

The IOM conducted a major anti-trafficking public relations campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

## COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a president and unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. The presidential term of Abel Pacheco de la Espriella, of the Social Christian Unity Party (PUSC), began in May 2002, after he garnered 58 percent of the vote in a fair and free election. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the anti-narcotics police—and the Ministry of the Presidency share responsibility for law enforcement and national security. Civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market economy was based primarily on light industry, tourism, and agriculture; the country's population was approximately 3.9 million. The Constitution protects the right to private property; however, domestic and foreign property owners have in the past encountered 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 5.6 percent, compared with 2.8 percent in 2002. The unemployment rate was 6.7 percent. An estimated 19 percent of the population lived in poverty.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and penitentiary overcrowding remained a problem. 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, although it has declined during the last 5 years. Trafficking in persons was a problem.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings.

There was one instance of a killing by security forces that occurred when they were removing squatters (see Section 1.f.).

*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. The Ombudsman's office was an effective mechanism for lodging and recording complaints of police misconduct (see Section 4).

As of December, the Ombudsman's office received 53 reports of police abuse of authority or misconduct. Of these, 43 reports were still being investigated at year's end, 8 were determined to be legitimate, and 2 were determined to be without merit. This compared with 12 legitimate complaints received in 2002 and 21 in 2001.

Prison conditions 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. As of September, the Ombudsman's office received 14 complaints of physical abuse of prisoners by guards, of which 7 were still being investigated, two were determined to be legitimate, and 5 were determined to be without merit. The office also received 50 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 50 complaints, 25 were still being investigated, 12 were determined to be legitimate, and 13 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 abuse was common.

Penitentiary overcrowding remained a problem. As of December, the Social Adaptation Division of the Ministry of Justice reported a total of 12,908 persons under its supervision, including 6,723 jailed prisoners, 1,216 persons required to spend

nights and weekends in jail, 4,501 persons in supervised work programs requiring no jail time, and 468 juveniles. The overall prison overpopulation rate was 8 percent; however, crowding was more severe in several small jails. The facility in Perez Zeledon had the highest rate of overcrowding at 61 percent. Problems at La Reforma prison complex, the country's largest, have drawn attention to conditions in that prison. 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 a poorly functioning drug-rehabilitation program.

As of December, the Ministry of Justice reported a total of 1,109 women under its supervision, including 454 jailed prisoners, 194 persons required to spend nights and weekends in jail, and 541 persons in supervised work programs requiring no jail time. Female prisoners were held separately in conditions that generally were considered fair, although the overcrowded women's prison held 50 percent more inmates than its intended capacity.

Juveniles were held in separate detention facilities in campus-like conditions that generally were considered good. The juvenile penal system held 28 youths in detention and another 440 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.

In 1996, the Government combined several police units into a single "public force" that includes the Border Guard, the Rural Guard, and the Civil Guard. The public force is approximately 9,805 strong (an additional 300 slots need to be filled), not including municipal police forces, which are under the budget and supervision of each municipality. The public force has a Disciplinary Legal Department with an Internal Affairs Unit to investigate charges made against its members. During the year, these investigations resulted in 181 dismissals, primarily for unauthorized absence (80 cases), alcohol and drug abuse (44 cases), corruption (19 cases), and excessive physical force (6 cases).

The Pacheco administration 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 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 may hold suspects incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. A criminal court may hold suspects in pretrial detention for periods of up to 1 year, and the court of appeals may 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 July there were 1,850 persons in pretrial detention, representing 28 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; however, the legal system faced many challenges, including significant delays in the adjudication of civil disputes and a growing workload supported by a shrinking budget.

The judicial branch of government includes the upper and lower courts, the judicial investigative police department, the office of the prosecutor, the office of the public defender, forensic laboratories, and the morgue. The Supreme Court is the highest court, with 22 justices known as magistrates. The Legislative Assembly elects those magistrates for 8-year terms, which are renewed automatically unless two-thirds of the Assembly opposes such renewal. Overall, the Supreme Court has

a reputation for independence and integrity. Below the Supreme Court, the next tier of courts is organized at the circuit level. The final tier of courts, or courts of the first instance, operate at the municipal level.

Accused persons can 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 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 may 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, are 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. In July, the security forces removed about 500 squatters from a 1,000-hectare parcel of bamboo forest owned by the Standard Fruit Company, resulting in the death of one squatter. At year's end, an investigation into this death was under way.

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

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

In an August survey by La Nacion newspaper of 184 journalists on their perception of freedom of the press, 41 percent said they left out information in reporting because of legal concerns, 79 percent said they felt pressure not to investigate certain issues, and 22 percent claimed that they had received some type of threat during the previous 12 months relating to the performance of their job. The greatest number of threats came from business and political interests. Of the surveyed journalists, 75 percent indicated that they felt constrained in their practice by existing legislation, and the same proportion 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 "insult 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.

On December 23, journalist Ivannia Mora was murdered; on December 28, the police arrested her former employer and charged him with the killing. Her attempt to start a competing newspaper appeared to be the motive.

The authorities arrested five suspects in the July 2001 murder of popular radio host Parmenio Medina; at year's end, they were detained pending trial.

The Office of Control of Public Performances rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. A tribunal reviews 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 freedom of assembly and association, and the Government generally respected these rights in practice.

In June, an estimated 50,000 workers and students staged a protest rally in central San Jose during strikes by public teachers and public utility workers. The demonstration ended peacefully and without incident. In September, several thousand dock workers in the province of Limon went on strike, as did workers from the pe-

troleum parastatal. There were some confrontations with police, several arrests and a few injuries.

Most cases were dismissed for the 63 demonstrators arrested in July 2002 protests that blocked several major highways; in one of the few cases that went to trial, the court acquitted former Deputy Celimo Guido.

*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. 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.

The Government does not restrict the establishment of churches. New churches, primarily evangelical Protestant churches that are located in residential neighborhoods, occasionally have encountered problems with local municipalities due to neighbors’ complaints about noise and traffic. Some have been closed as a result.

For more detailed information, see the 2003 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. 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 refugee status or asylum to persons who meet the definition of the U.N. 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Refugee Department, in the General Directorate of Migration, is in charge of refugee status determination. The Government makes a distinction between political asylum and refugee status, the former handled by the Minister of Foreign Affairs and the latter by the Refugee Department.

During the year, the Government received 12,468 applications for refugee status, of which 11,852 were from Colombians. From January to July, the Government recognized 1,182 persons as refugees, of which 1,063 were of Colombian origin. This compares to 3,785 requests in 2002, of which 3,613 were from Colombians. These figures include family members. As of August 1, the UNHCR reported the total refugee population to be 14,008, including 8,760 Colombian refugees. The majority entered in legal visitor status and applied for asylum. Those who sought temporary refugee status were expected to return to their country of origin once the period of conflict ended there.

The Constitution specifically prohibits repatriation of anyone subject to potential persecution. The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. According to the General Directorate of Migration, between January and August, the Government had deported 690 persons, of which 492 were Nicaraguans, and denied entry to 26,005 persons, of which 22,334 were Nicaraguans.

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. Presidents may seek reelection after sitting out two 4-year terms. Assembly members may seek reelection after at least one term out of office.

In the February 2002 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 Unity Party. PUSC candidates won 19



of the Legislative Assembly's 57 seats. The National Liberation Party won 17 seats, and several other parties hold the remaining seats.

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 Children's Welfare, the Minister of Health, and the Minister of Women's Affairs were women. There were 20 women among the Legislative Assembly's 57 deputies, including 4 legislative committee chairwoman, and women held several prominent offices in the 3 largest political parties.

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 generally 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 Ombudsman's office served as a recourse for citizens who had complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. 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 investigated complaints and, when appropriate, initiated suits against officials. It 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.

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 13,560 calls on its domestic abuse hotline from January through July, compared with 63,990 calls in all of 2002. INAMU attributed the decline to better police training and the hiring of more female police officers, which in turn led to more immediate and direct intervention. Between January and August, INAMU counseled 3,609 female victims of abuse in its San Jose office and accepted 176 women in INAMU-run shelters.

The Office of the Special Prosecutor for Domestic Violence and Sexual Crimes prosecuted 448 cases related to domestic violence during 2002, compared with 456 cases in 2001. INAMU reported that 25 women and girls were killed in incidents of domestic violence between January and September, compared with 24 during 2002.

The 1996 Law Against Domestic Violence established precautionary measures to help victims. 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. The public prosecutor, police, and the Ombudsman all had offices dedicated to this prob-

lem. 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 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. It also established a legal framework intended to comply with the Convention on the Rights of the Child and other international standards. Primary education is compulsory, free, and universal. The law requires 6 years of primary and 3 years of secondary education for all children, and attendance is required until age 15. School attendance requirements are generally enforced, with an estimated primary school dropout rate as of August of 2.7 percent and a secondary school dropout rate of 5.5 percent. There was no difference in the treatment of girls and boys in education or in health care services. The country had a high rate of literacy (96 percent) and a low rate of infant mortality (11 persons per 1,000). The Government spent over 5 percent of GDP on medical care, including that for children. The autonomous National Institute for Children (PANI) oversaw implementation of the Government's programs for children. In May 2002, President Pacheco changed the title of PANI's Executive Director to the Minister of Child Welfare.

In recent years, PANI increased public awareness of abuse of children, which remained a problem. PANI's budget was \$19,832,000 (8,131 million colones), a 21 percent increase over the 2002 budget. From January to April, PANI assisted 5,391 children, including 184 cases of substance abuse, 283 cases of physical abuse (compared with 403 in 2002), 2,984 cases of sexual abuse (compared with 3,475 in 2002), and 924 cases of psychological abuse (compared with 1,601 in 2002). 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 136 accusations of exploitation of minors from January through August. Casa Alianza estimated that of the approximately 1,500 children living on the street, 76 percent were addicted to drugs and 29 percent survived by prostitution. In 2002, the organization produced a study in which it criticized the Government for failure to fund PANI adequately. It also criticized PANI for lacking the professional and technical resources needed to address the problems of street children in the proper psychological, social, and legal context.

The Constitution and the Labor Code provide special occupational protection for minors and establish a minimum working age of 15 years. Child labor is a problem mainly in the informal sector of the economy (see Section 6.d.).

*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. 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 19,782 students with disabilities were registered in the school system during the year, and that 46 special education centers had been created.

*Indigenous People.*—The population includes nearly 64,000 indigenous persons among 8 ethnic groups. Most (73 percent) 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 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. The Labor Code also guarantees freedom of association in the negative sense, i.e. the right not to join a union and to leave a union, and accordingly prohibits any action that might infringe that right. About 12 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-collecting organizations have been 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 has been to offer membership services, including credit union programs, matching-fund savings accounts, and low-interest loans.

The law prohibits discrimination against union members and imposes sanctions against offending employers. However, a 2001 International Labor Organization (ILO) report noted continued problems related to the slowness and inefficiency of redress procedures for unjustified firings and discriminatory antiunion measures, especially in the private sector. According to the Labor Ministry, the situation has improved, and the number of outstanding cases was reduced from 16,619 in 1998 to 7,742 in 2002. The Ministry credits the establishment of specialized labor courts and the appointment of 37 new judges working expanded hours with reducing the backlog. In 2000, the Ministry created the Center for Alternative Resolution of Labor Disputes (RAC), which depends on conciliation and arbitration and dispenses with the legal formalities of the labor courts. During the year, RAC handled 2,462 cases, 47 percent of which resulted in an agreement between the parties.

Delays in processing court rulings were common throughout the judicial branch, with little improvement in the slow and ineffective recourse procedures in response to anti-union discrimination. The Ministry of Labor continued its efforts to modernize the National Inspection Directorate, 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 and did form federations and confederations and affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and the right to voluntary collective bargaining. Foreign nationals are expressly prohibited from exercising direction or authority in unions. The ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) cited the importance of amending both the Labor Code and the Constitution in order “to abolish the current excessive restrictions on the right of foreign nationals to hold trade union office.”

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. In 1999 and again in 2002, the CEACR noted its concern that no prior authorization from the administrative authority is required for dismissal. It also noted that legislation needs to be amended “to expedite judicial proceedings concerning anti-union discrimination and to ensure that the decisions thereby are implemented by effective means.”

If a trade union of which at least 34 per cent of the workforce are members requests collective bargaining, the employer is obligated to initiate the bargaining process. If the employer refuses to do so, or if no agreement is reached, the workers may have recourse to the judicial procedures that exist to resolve socio-economic disputes, which include the possibility of exercising the right to strike. In the event of noncompliance with an agreement by an employer, the trade unions can, in addition to taking legal action to force the employer to comply, request that the employer be fined and forced to pay compensation.

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 of union organizers. The 2001 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 7,200 workers covered) 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 law provides for the right to strike, and workers exercised this right. The general requirements set out by the legislature for a strike to be legal include the requirement that at least 60 percent of the workers in the enterprise support strike action. The Constitution and Labor Code restrict the right of public sector workers to strike. Following the Constitutional Chamber’s ruling in August 2000 that the prohibition of strike action in public services contained in the Labor Code was unconstitutional, the prohibition applies only to essential services that are listed restrictively and directly concern the national economy or public health. However, they also include transport services, which in the view of the CEACR is “incompatible with the right of workers’ organizations to organize their activities and to formulate their programs in full freedom,” as set out in ILO Convention 87. The CEACR also criticized the 60 percent vote required to call a legal strike, noting that account should be taken only of votes cast, and that the required quorum and majority should be fixed at a reasonable level.

In practice, strikes, whether legal or not, were tolerated. There were a number of strikes by public sector workers during the year. In May and June, electricity and telecommunication workers were out for 3 weeks and public school teachers went on strike for 1 month. In neither case did workers lose their salaries. In September, dock workers in the province of Limon went on strike as did workers from the petroleum parastatal. Nonetheless, the COE reported that workers in the rail, maritime, and air transport sectors were prohibited from exercising their right to strike.

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 apply 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 PANI, while children under the age of 15 may not work legally. The law prohibits night work and overtime for minors. A higher minimum age for admission to employment, such as 18 years, applies to certain activities considered to be unhealthy or hazardous. In addition, minors are entitled to facilities allowing them to attend educational establishments, through school arrangements and timetables adapted to their interests and employment conditions, and to participate in apprenticeship training programs.

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.

Child labor was a problem mainly in the informal sector of the economy, including small-scale agriculture, domestic work, and family-run enterprises. Child prostitution remained a serious problem (see Section 6.f.). In August, the Ministry of Labor and ILO released the “National Report of the Results of the Survey of Child and Adolescent Labor in Costa Rica.” According to the report, of the 1.1 million children and adolescents between the ages of 5 and 17 in the country, 11 percent were employed or looking for work. Child workers were employed mainly in agriculture (43.4 percent), in construction, as street vendors, and as domestic servants. The primary reasons given for working were to help support the family or to work in the family business or farm.

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 Ministry of Labor maintained an Office for the Eradication of Child Labor, and the Government has a number of social programs aimed at reducing the causes of child labor. These include providing small loans and economic aid to families with at-risk children and scholarships for poor families to cover the indirect costs of attending school. The country also implemented a number of programs aimed at reinserting child workers into the education system.

*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 ranged from approximately \$142 (56,904 colones) for domestic employees to approximately \$560 (223,923 colones) for university graduates. 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. Workers have the right to leave work if conditions become dangerous; however, workers who did so may jeopardize their jobs unless they file written complaints with the Ministry of Labor.

The Government estimated that there were as many as 500,000 Nicaraguans living in the country, many of them in irregular status, and working in agriculture near the Nicaraguan border.

*f. Trafficking in Persons.*—The law prohibits trafficking in women and minors for the purpose of prostitution, but it does not address all severe forms of trafficking, and trafficking in persons was a problem.

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 October 9, the authorities arrested "Sinai" Monge Munoz for allegedly operating a child prostitution ring in San Jose. It was alleged that she ran the operation for 11 years, supplying adolescents between the ages of 14 and 17 for purposes of prostitution. At year's end, she was detained pending trial; the authorities were investigating her for pimping.

In November 2002, Merlin Ocampo Chacon, a former Migration officer, was sentenced to 12 years' imprisonment for criminal association with an international document fraud operation and another official is awaiting trial for allegedly passing a false passport to a minor for transit through Panama to the United States.

In December 2002, 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' imprisonment.

The government agencies responsible for addressing the problem include the Special Prosecutor on Domestic Violence and Sex Crimes, the Foreign Ministry, the

Labor Ministry, the Public Security Ministry, the Child Welfare Ministry, and the Tourism Ministry.

Costa Rica was a transit and destination country for trafficked persons and, to a lesser degree, a country of origin. Cases of trafficking have involved persons from Colombia, Dominican Republic, Panama, Nicaragua, Romania, and Russia. There also were reports of girls from the Philippines being trafficked to the country for the purpose of sexual exploitation. While evidence suggested that most trafficked persons remained in the country, some transited to Canada, Mexico, and the U.S. Some Costa Rican women, generally from impoverished backgrounds, have also been trafficked to Canada, Mexico, and the U.S. Traffickers often approach victims with a promise of secure employment and good pay.

Child prostitution was a serious problem. Although no official statistics existed, PANI identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Child prostitutes have also been sent from San Jose to coastal and border communities. PANI estimates that 3,000 children suffer from commercial sexual exploitation.

There was no evidence at a national level of government tolerance of trafficking, and efforts were being made to raise awareness and encourage a professional, law enforcement approach to trafficking at the local level. These efforts, however, were hampered by a lack of resources. A government Inter-Ministerial Group on Trafficking was formed to address the problem. 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 and a radio campaign to raise awareness about the plight of street children. 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.

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## 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. In March, Castro declared his intent to remain in power for life. 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 609-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, which Castro heads. On January 19, the Government held general elections for all 609 seats on the ANPP. 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 and emigrant remittances. The economy performed poorly during the year, primarily due to inefficient policies. The annual sugar harvest was the smallest since 1933, partly as the result of a restructuring of the sugar industry that included the closure of half the country's sugar mills and the elimination of one-quarter of the jobs in the industry. Government officials predicted the economy would grow by 1.5 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 repressed small-scale businesses and announced substantial new taxes for private room renters, imposing additional hardships for those operating in the country's small private sector. A system of "tourist apartheid" continued, whereby citizens were denied access to hotels, beaches, and resorts reserved for foreign tourists.

The Government's poor human rights record worsened, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government peacefully. Although the Constitution allows legislative proposals backed by at least 10,000 citizens to be submitted directly to the ANPP, in 2002, the Government rejected a petition known as the Varela Project with more than 11,000 signatures calling for a national referendum on political and economic reforms. In October, Project Varela organizers submitted a second petition to the ANPP with more than 14,000 new signatories. Communist Party-affiliated mass organizations tightly controlled elections to provincial and national legislative bodies, resulting in the selection of single, government-approved candidates. In March, the Government arrested 75 human rights activists, independent journalists, and opposition political figures on various charges, including aiding a foreign power and violating national security laws. Authorities subjected the detainees to summary trials and sentenced them to prison terms ranging from 6 to 28 years. During the year, other human rights activists were arrested for acts such as possessing and publicly displaying human rights literature, receiving money and medicine from abroad for families of political prisoners, communicating with international media organizations, and organizing meetings and demonstrations to call for political reforms. 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, and the Government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care. 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 and closely monitored domestic and international journalists through physical and electronic surveillance. 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.

#### 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; however, on April 11, the Government summarily executed three persons for hijacking a ferry, following a summary trial and a perfunctory review of the death sentences.

In March, the three men, Lorenzo Copello Castillo, Barbaro Sevilla Garcia, and Jorge Martinez Isaac, were arrested for hijacking a ferry during an effort to migrate illegally. On April 5, the Havana City Provincial Court began the trial and convicted the three men on April 8. On April 9, the Supreme Court rejected their appeal and

the Council of State confirmed the death sentences. On April 11, the Government executed the men and did not advise their families until they had been buried. The Inter-American Commission on Human Rights (IACHR) and other international observers criticized the executions, in particular, the summary nature of the hijackers' trials and the absence of due process. The IACHR determined that the process leading up to the executions constituted "the arbitrary deprivation of life." Local human rights monitors noted the especially harsh nature of the punishments in view of the fact that no persons were injured during the hijacking.

During the year, there were reports that prisoners died in jail due to lack of medical care (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 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 January 22, police forced Jose Daniel Ferrer Garcia and a colleague from a bus and beat them. Ferrer was a local leader of the Christian Liberation Movement and a Project Varela organizer. In April, the Santiago Provincial Court sentenced him to 25 years' imprisonment for "acts against the independence or the territorial integrity of the State" (see Section 1.e.).

On February 11, police in Santiago Province beat Daniel Perea Garcia of the Christian Liberation Movement and dragged him to a local police station, where he was fined and released. Perea was one of several members of the Christian Liberation Movement arrested following a series of government-organized attacks against opposition members in Santiago Province.

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.

In January, the first secretary of the Communist Party in Granma Province and several government candidates for the January 19 ANPP elections directed several dozen persons to engage in an act of repudiation against Tania de la Torre Montesinos of the Assembly to Promote Civil Society. Government officials placed young children in front of baton-wielding adults and instructed the children to yell pro-government slogans at de la Torre.

On February 4, 100 members of an RRB attacked the home of Jesus Mustafa Felipe of the Christian Liberation Movement, shouting death threats and pro-government slogans. According to the opposition members who took refuge in Mustafa's home, several individuals sprayed a toxic pesticide into the home during the attack. On February 18, Mustafa was tried on charges of "contempt of authority" and sentenced to 18 months' imprisonment. In March, the authorities levied additional charges against Mustafa and sentenced him to 25 years' imprisonment following a summary trial (see Section 1.e.).

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 July 30, members of a CDR shouted pro-government slogans at fellow CDR member Olga Lidia Arbolaez Crespo for having signed the Varela petition. According to an independent journalist, Arbolaez was forced to take refuge in her home when her attackers threatened to stone her for stating that citizens needed greater political freedoms and for making other "subversive statements."

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 pro-



hibits 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 generally held separately from convicted prisoners, although some long-term detainees, including political detainees, were held with convicted prisoners. In Havana, there were two detention centers; once sentenced, persons were transferred to a prison.

In June, political prisoner Manuel Vazquez Portal, one of 75 activists arrested by the Government in March, reported that his cell flooded with water every day and that sewage from a latrine regularly spilled into his cell. Vazquez was sentenced to 18 years' imprisonment for his work as an independent journalist (see Section 2.a.).

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 January 31, a political reeducation officer beat jailed independent journalist Carlos Brizuela Yera for having copies of the Universal Declaration of Human Rights and a report from the international nongovernmental organization (NGO) Reporters Without Borders. Brizuela was arrested in March 2002 on charges of public disorder, resistance, and contempt for authority and remained jailed without trial.

On September 2, prison officials beat political prisoner Angel Ramon Eireos Rodriguez, of the February 24 Movement, with a club for demanding improved prison conditions. Eireos was jailed on February 28 and was serving a 20-month sentence on charges of "resistance" and "contempt for authority."

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.

In January, political prisoner Juan Carlos Gonzalez Leyva reported that another inmate had entered his cell during the night and attempted to bludgeon him but fled when Gonzalez Leyva awoke. Prison authorities told Gonzalez Leyva's family that they would take steps to prevent further such incidents. Gonzalez Leyva, who is blind, was arrested in March 2002 on charges of "contempt for authority, public disorder, disobedience, and resistance." Prosecutors requested a 6-year sentence for Gonzalez, but at year's end he remained jailed without trial.

On September 18, five political prisoners at 1580 Prison in Havana went on a hunger strike to demand protection from common prisoners, who were beating political prisoners at the instigation of prison guards. On September 22, police beat two of the hunger strikers, Iosvani Aguilar Camejo and Jose Enrique Santana, to induce them to give up their protest. Aguilar and Santana were among the 300 persons rounded up by the Government in February 2002 after 21 asylum seekers used a bus to break into the Mexican Embassy.

In October, seven political prisoners at Holguin Provincial Prison went on a hunger strike to protest the beating of jailed independent journalist Ivan Hernandez Carrillo by the prison official in charge of political re-education. Prison authorities denied a request by the families of the hunger strikers to see the prisoners to assess their health and barred the prisoners from otherwise communicating with their families. Prison officials ended the protest in November by separating the hunger strikers and sending them to different prisons.

In October, the family of Leonardo Bruzon Avila reported that he would be on a hunger strike from October 10 to November 11 to demand the release of all political prisoners. State Security officials reportedly offered to release Bruzon in July if he would allow himself to be filmed conversing with them. Bruzon declined the offer, suspecting authorities would use such a film falsely to allege that he was a Government agent, and officials transferred him from a medical detention facility to a regular prison. Bruzon was jailed in February 2002 on charges of civil disobedience and, at year's end, remained jailed without trial.

On December 6, a common prisoner in Holguin Provincial Prison beat 54-year-old political prisoner Adolfo Fernandez Sainz until Fernandez was unconscious. The prisoner who carried out the beating was authorized by prison guards to exercise control over other inmates. Prison officials told Fernandez the common prisoner should

have beaten him harder in order to kill him. In April, Fernandez was sentenced to 15 years' imprisonment for his work as an independent journalist (see Section 2.a.).

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.

On June 9, Elsa Morejon, the wife of political prisoner Oscar Elias Biscet, reported that Biscet was being held in a tiny isolation cell for refusing to wear a prison uniform. Morejon asserted that common prisoners were permitted to wear their civilian clothes and believed that Biscet was being singled out for punishment because of his political views. Biscet's cell was sealed to prevent daylight from entering, and he was not permitted to leave his cell for exercise or to have a Bible. The authorities barred Biscet from receiving visitors from March until August, when he was permitted to see his wife. Biscet's conditions improved in August, although he continued to refuse to wear the prison uniform. In November, he was placed in a punishment cell with a convicted murderer for 21 days for allegedly inciting other prisoners to demand improved treatment by prison officials and authorities again suspended family visits. In December, authorities advised Morejon that Biscet would be placed in a punishment cell indefinitely for failing to show proper deference to prison officials. Biscet was 1 of 75 political detainees subjected to summary trials in April (see Section 1.e.).

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. Both the IACHR and the former U.N. Special Rapporteur on the country, as well as other human rights monitoring organizations, have reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition. On July 30, Amnesty International (AI) expressed concern to the Government regarding the poor health of numerous political prisoners, the limitations on family visits for some political prisoners, and the incarceration of many political prisoners far from their home provinces. The Government did not respond to AI.

In May, Miriam Leyva, the wife of jailed independent journalist Oscar Espinosa Chepe, reported that prison officials were failing to provide adequate medical treatment for Chepe, who suffers from liver disease, high blood pressure, intestinal polyps, and other illnesses. Chepe was 1 of 28 independent journalists sentenced to long prison terms in April following summary trials (see Section 2.a.). According to Leyva, Chepe lost 25 pounds due to diarrhea and lack of medical care in the weeks following his arrest, conditions aggravated by his transfer to a prison 500 miles from Havana. Prison officials refused Leyva's numerous requests to see Chepe or to provide him medication. A prison doctor informed Leyva that State Security agents, rather than medical staff, determined what medication would be administered to Chepe. In August, prison officials transferred Chepe to a military hospital in Havana, where he received improved medical care and was permitted to see his wife but remained in poor health. Leyva complained that prison officials limited her access to Chepe's doctors and kept Chepe heavily sedated.

In July, jailed independent journalist Juan Carlos Herrera Acosta reported that common prisoner Carlos Duane died of a heart attack after prison medical officials repeatedly refused to respond to Duane's complaints of chest pains.

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.

In September, officials at Kilo 8 Prison in Camaguey Province threatened to suspend family visits for nine political prisoners who read aloud to each other from the Bible. The nine prisoners, Eduardo Diaz Fleites, Ricardo Gonzalez Alfonso, Lester Gonzalez Penton, Juan Carlos Herrera Acosta, Regis Iglesias Ramirez, Jose Miguel Martinez, Omar Rodriguez Saludes, Claro Sanchez Altarriba, and Miguel Valdes Tamayo, were among the 75 activists and independent journalists arrested in March and sentenced to long prison terms following summary trials (see Section 1.e.).

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.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective and commonly used 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 people to build socialism. The authorities routinely invoked this sweeping authority to deny due process to those detained on purported state security grounds.

The Ministry of the Interior exercises control over police and internal security forces. The National Revolutionary Police (PNR) is the primary law enforcement organization and was generally effective in investigating common crimes. Specialized units of the Ministry of the Interior are responsible for monitoring, infiltrating and suppressing opposition political groups, although the PNR does play a supporting role by carrying out house searches and providing interrogation facilities for State Security agents. There were few reports of corruption, although authorities arrested several PNR officers in January on corruption charges during a crackdown on narcotics trafficking and other illegal activities.

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 sometimes employed false charges of common crimes to arrest political opponents. Detainees often were not informed of the charges against them. 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.

In March, authorities arrested 75 human rights activists, journalists, and opposition political figures, charging them with various crimes, including national security violations and aiding a foreign power. The U.N. High Commissioner for Human Rights expressed concern regarding the arrests and summary trials, as did many governments, international organizations, and public figures. The 75 political prisoners included 28 independent journalists, 9 independent librarians, and at least 21 persons affiliated with the Varela petition. Several of the prisoners were elderly; 21 of the prisoners were over the age of 50.

In mid-March, police arrested Regis Iglesias Ramirez of the Christian Liberation Movement on charges of "acts against the independence or the territorial integrity of the State." On April 5, the Havana City Provincial Court sentenced Iglesias, a Project Varela organizer, to 18 years' imprisonment (see Section 1.e.).

On March 18, Ministry of the Interior officials arrested poet and independent journalist Raul Rivero on charges that he carried out "acts against the independence or the territorial integrity of the State." On April 5, he was convicted and sentenced to 20 years' imprisonment (see Section 2.a.).

On March 20, Ministry of the Interior officials arrested Martha Beatriz Roque of the Assembly to Promote Civil Society for acts against the independence or the territorial integrity of the State.

On March 25, police arrested human rights monitor Marcelo Manuel Lopez Banobre of the Cuban Commission for Human Rights and National Reconciliation after he visited a foreign embassy in Havana. The authorities subjected Lopez to a summary trial and sentenced him to 15 years' imprisonment under Article 91 of the Penal Code, acts against the independence or the territorial integrity of the State (see Section 1.e.). He was penalized in part for his work on behalf of AI and other international human rights organizations.

Many of the 75 activists subjected to summary trials in April reported that they had little or no access to a lawyer and many were only advised of the charges against them as the trials were about to begin. For example, independent journalist Manuel Vazquez Portal was arrested on March 19 but was not able to see a lawyer until the day of his trial on April 4.

There were at least 32 political detainees awaiting trial at year's end. Most of the 32 had been held for more than 1 year.

According to relatives, approximately 9 of the 300 persons arrested near the Mexican Embassy in February 2002 remained jailed without trial at year's end.

The Government often held persons without charges for months and then released them, which avoided the spectacle of a trial.

State security police used detentions and warnings to prevent organizations around the country from performing any actions in remembrance of the four pilots killed in February 1996 by military aircraft.

The authorities sometimes detained independent 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 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. The Penal Code permits the authorities to bar an individual from a certain area or to restrict an individual to a certain area for a period of from 1 to 10 years. Under this provision, authorities may exile any person whose presence in a given location would be "socially dangerous."

On May 23, Ministry of the Interior officers advised independent journalist Oscar Mario Gonzalez that he should not return from a planned trip to Spain. The officials warned Gonzalez that he could be jailed for 25 years if he continued to work as a journalist.

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 (HRW) 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. AI 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 AI, 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. 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 generally known to the defendant, although several political detainees subjected to summary trials in April were unaware of the charges against them until moments before their trials were set to begin. 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.

In early April, the Government summarily tried 75 independent journalists, human rights activists, and members of the political opposition for alleged acts against the independence or the territorial integrity of the State or aiding a foreign power. All 75 of the detainees were arrested, tried, convicted, and sentenced within a period of 20 days. On April 9, the Government asserted the 75 detainees were provided adequate legal guarantees during the trials; however, the families of the detainees disputed that assertion. Most defense attorneys for the 75 detainees had less than 24 hours to prepare for trial, and several defendants were unaware that they were going to be tried until the moment they were escorted into the courtroom. The authorities permitted small numbers of family members to attend the trials but excluded public and diplomatic observers and packed the courtrooms with regime supporters. The family of Luis Enrique Ferrer Garcia of the Christian Liberation Movement was barred from the courtroom during his trial, and members of the public reportedly pushed Ferrer's 56-year-old mother to the ground as she waited outside for the verdict. Much of the evidence against the defendants consisted of unsubstantiated or unspecified allegations of activities against the Government on behalf of a foreign power and vague accusations of "counterrevolutionary" behavior. The testimony provided by 12 State Security agents infiltrated into opposition groups consisted primarily of attacks against the character of several of the defendants. In June, AI found that, "the conduct for which dissidents were prosecuted was not self-evidently criminal; it was nonviolent and appeared to fall within the parameters of the legitimate exercise of fundamental freedoms as provided under international standards." AI determined that all 75 jailed activists were "prisoners of conscience."

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 April 4, the Havana City Provincial Court sentenced Martha Beatriz Roque Cabello of the Assembly to Promote Civil Society to 20 years' imprisonment for "activities aimed at subverting the internal order of the Cuban State" and for allegedly receiving funds from and maintaining links to a foreign government. Prosecutors, who had requested a life sentence for Roque, failed to specify how Roque's activities had threatened the stability of the Government. Roque was arrested on March 20 while undertaking a fast to draw attention to the case of Oscar Elias Biscet and other political prisoners.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos of the United Cuban Workers Council to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. Much of the evidence against Alvarez consisted of an inventory of materials in his possession, including a fax machine, fax paper, and a video camera, as well as evidence of his contacts with unions in Latin America and Europe (see Section 6.a.).

On April 5, the Havana City Provincial Court sentenced Antonio Diaz of the Christian Liberation Movement to 18 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated that business cards found in Diaz' possession demonstrated his links to foreign diplomats and that these links, together with Diaz' comments to foreign media and his possession of "counterrevolutionary" books, constituted a grave threat to national security.

On April 8, the Havana City Provincial Court sentenced Oscar Elias Biscet of the Lawton Human Rights Foundation to 25 years' imprisonment for unspecified acts against the independence or territorial integrity of the State. At the time of his trial, Biscet was in detention on separate charges of public disorder stemming from his arrest in December 2002 for attempting to organize a human rights seminar. Biscet was released from prison in October 2002 after serving a 3-year sentence for "insulting the symbols of the Fatherland" and public disorder.

Human rights monitoring groups inside the country estimated the number of political prisoners to be between 300 and 400 persons. 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 Government employed physical and electronic surveillance against nonviolent political opponents. 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. Although official statistics indicated that CDRs have grown over the past decade and included 93.5 percent of the population over the age of 14, in reality, 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 generally were not available to average citizens.

In April, authorities revealed that they used hotel waiters and other nonofficial persons to monitor the conversations of regime opponents in public places. Government prosecutors used testimony by waiters at the Hotel Nacional in Havana to help convict and sentence to lengthy prison terms the 75 political opponents during summary trials in April (see Section 1.e.).

In early August, officers of the Ministry of the Interior threatened to arrest the wife of political prisoner Blas Giraldo Reyes Rodriguez if she continued to receive activists who visited her to express sympathy for the jailing of her husband. Police told Isel de las Mercedes Acosta Obregon that they would try her for violating the Law to Protect National Independence and the Economy (Law 88) (see Section 2.a.) if she did not cease "counterrevolutionary activities."

On September 5, police threatened to take the 3-month-old daughter of Milka Pena, the wife of political prisoner Luis Enrique Ferrer Garcia. Police also warned Pena that they could prevent her from receiving remittances from abroad, her major source of income since the jailing of her husband in March. Police did not explain why they were threatening Pena, but she assumed it was because she had a sign on her home calling for the release of political prisoners.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana. The number of forced evictions increased throughout the country during the year as the Government enforced new, stricter regulations against housing "illegalities."

On January 14, police in Santa Clara Province evicted 11 families from their houses and demolished the structures, despite the fact that the owner of the property authorized the families to settle there. The authorities gave the families 72 hours to remove their belongings before evicting them.

In late September, police evicted Hilda Machado from her home in Havana Province for building a home without the required permit. Machado complained that she previously paid a fine for building without a permit, but had been allowed to continue construction. Several dozen neighbors protested Machado's eviction but were unable to stop officials from seizing her property.

## *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 anti-government 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 security 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. The Penal Code bars "clandestine printing" and provides for 3 to 6 months' imprisonment for failure to identify the author of a publication or the printing press used to produce the publication. Even the Catholic church-run publications, denied access to mass printing equipment, were subject to governmental pressure. *Vitral* magazine, a publication of the diocese of Pinar del Rio, continued to publish during the year, although officials publicly described it as "counterrevolutionary propaganda." In March, the Cuban Conference of Catholic Bishops indicated that the Church did not register its publications with the Ministry of Culture as required by law because registration would force it to concede control to the State.

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 and resident international correspondents. The Government barred some foreign journalists from entering the country.

The 1999 Law to Protect National Independence and the Economy (Law 88) outlawed 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 for each charge. The authorities convicted more than 30 independent journalists and human rights activists under Law 88 during the year, sentencing them to prison terms of up to 27 years. AI expressed "grave concern" regarding the application of Law 88, which it said appeared to place "unlawful restrictions on internationally-recognized rights."

The authorities arrested 28 independent journalists in March and subjected them to summary trials on charges of violating Law 88 or for alleged acts against the security of the State. All were convicted and sentenced to terms ranging from 14 to 27 years' imprisonment. On April 4, the IACHR Special Rapporteur for Freedom of Expression expressed "grave concern" about the actions taken against independent journalists and urged the Government to respect freedom of expression and information. The international press freedom organizations Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) also criticized the arrests and trials of the independent journalists. RSF launched a public campaign on behalf of the imprisoned journalists, identifying the country as the "Biggest Prison in the World for Journalists."

On April 5, the Havana City Provincial Court sentenced Raul Rivero, director of the independent Cuba Press news agency, to 20 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated Rivero was convicted for receiving payment for stories submitted to foreign news publications and for maintaining links with foreign diplomats and international NGOs, including RSF. The court alleged that Rivero filed false or misleading stories for personal gain, noting that he had used his income to purchase rugs, an air conditioner, and plastic chairs.

On April 5, the Havana City Provincial Court convicted Ricardo Gonzalez Alonso of the Cuba Press news agency of acts against the independence or territorial integrity of the State and sentenced him to 20 years' imprisonment. The sentencing document focused on Gonzalez' publication of the magazine *De Cuba*, which included articles by opposition political figures. The document also indicated Gonzalez maintained a library that included "counterrevolutionary" literature, had contacts with

foreign diplomats, and received food, money, and medicine from exile organizations abroad.

On April 5, the Havana City Provincial Court sentenced independent journalist Manuel Vazquez Portal to 18 years' imprisonment for violating Law 88. The court determined that Vazquez received small payments for news stories that were "seditious and aggressive towards the revolutionary process." In September, the CPJ selected Vazquez as one of four winners of the annual International Press Freedom Award.

On April 6, the Havana City Provincial Court sentenced independent journalist Oscar Espinosa Chepe to 20 years' imprisonment for violating Law 88 and for acts against the independence or territorial integrity of the State. The court convicted Chepe for filing "false or distorted" news stories to foreign news organizations for payments of \$15 to \$100. Chepe was 62 years old and in poor health (see Section 1.c.).

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. 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. AI, HRW, the Inter-American Press Association, RSF, and the CPJ criticized the imprisonment of journalists and 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.).

In April, the Government revealed that purported independent journalists Manuel David Orrio and Nestor Bager were agents of the Ministry of the Interior assigned to infiltrate and report on independent journalists. Both Orrio and Bager testified on behalf of the State against independent journalists during summary trials of 75 activists in April.

On February 13, the authorities expelled Argentine journalist Fernando Ruiz Parra from the country for meeting with dissidents.

During the year, at least four independent journalists were denied the right to emigrate, including Manuel Vazquez Portal, Jorge Olivera, Normando Hernandez, and Dorka Cespedes. Vazquez, Olivera, and Hernandez were among the 28 independent journalists subjected to summary trials and lengthy prison sentences in April.

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; however, even if a receipt could be produced, police often confiscated equipment and used it as evidence against the journalists. 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 an exit permit each time they wished to leave the country. The Government also forced foreign correspondents to hire local staff from government agencies.

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.

In March, authorities arrested nine independent librarians and charged them with violating Law 88 or for acts against the independence or the territorial integrity of the State. All nine, including Raul Rivero, Victor Rolando Arroyo, Ivan Hernandez Carrillo, Jose Luis Garcia Paneque, Ricardo Gonzalez, Roberto de Miranda, Blas Giraldo Reyes, Jose Miguel Martinez Hernandez, and Omar Pernet Hernandez, were subjected to summary trials and sentenced to 13 to 26 years' imprisonment.

In late September, police in Holguin Province confiscated 250 books and 2 typewriters from independent librarian Lorenzo Garcia Rodriguez. Garcia reported that



police stationed an officer outside his home following a 3-hour search of his belongings and that he was under constant police surveillance, even when he attended Mass.

The Government controlled all access to the Internet, and all electronic mail messages were subject to government review and 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. During the year, the Government blocked instant messaging programs and reportedly increased efforts to identify unauthorized Internet and e-mail users. In 2002, 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 did not permit Catholic Church representatives to have access to the Internet.

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. On September 11, the Government shut down the Spanish Cultural Center for allegedly undertaking activities outside the scope of cultural exchange; the Government did not specify which activities constituted the alleged violation.

The Government restricted literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline more than any freedom of expression. The educational system taught that the State's interests took precedence over all other commitments. Academics, government journalists, 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 and to sell its work overseas for hard currency.

*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 sixth 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. The authorities permitted a total of 50 processions nationwide to mark the feast day of Our Lady of Charity but denied 14 others. The Government also denied permits for separate processions in the towns of Managua and East Havana on political grounds (see Section 2.c.).

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.). 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.

In June and July, officials of the Ministry of the Interior threatened to arrest the 10 to 20 wives of political prisoners who staged silent marches after attending Mass together at Havana's Santa Rita Church. In several instances, the authorities also threatened to terminate family visits with the political prisoners or to otherwise re-

tialiate against the prisoners for their spouses' displays of support. The spouses stopped walking together as a result of the threats, but continued to attend the same Mass.

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 employed CDRs and officials in the workplace to compel mass participation in these events.

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. The Constitution proscribes any political organization other than the Communist Party (see Section 3).

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 sanctioned 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. The Government does not favor any one particular religion or church; however, the Government appeared to be most tolerant of those churches that maintained close relations to the State through the Cuban Council of Churches (CCC). The CCC is generally supportive of government policies. Members of the armed forces do 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, such as the Baha'i Faith and a small congregation of the Church of Jesus Christ of Latter-day Saints. 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.

Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the CCC, 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 the visit of Pope John Paul II, 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 science and technology. 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 February, the Archbishop of Havana issued a pastoral letter lamenting the disintegration of families and the extreme pressure to emigrate and called upon the Government to shift from "policies of vengeance" to "policies of compassion." In March, the country's Ambassador to the Vatican asserted in an Italian magazine that complete religious freedom existed in the country and urged the Catholic Church to register its publications with the Ministry of Culture. The Cuban Conference of Catholic Bishops sent an open letter to the magazine criticizing the Government's strict control over the activities of the Catholic Church, especially state restrictions on religious education and Church access to the mass media. The Bishops' letter noted that the Catholic Church declined to register its publications because registration would force it to concede control to the State regarding the subject matter, number of pages, frequency, and number of copies of Catholic Church publications. In September, the Conference of Catholic Bishops issued a document accusing the Government of imposing tighter restrictions on the Church and on society since the visit of Pope John Paul II, and calling on the Government to show clemency towards political prisoners.

On May 15, local officials in the town of Managua in Havana Province revoked authorization for a procession to mark the feast day of the patron saint of Managua. Although the authorities permitted the procession to take place for the first time in 2002, officials told Pablo Fuentes, the local Catholic priest, that they had revoked authorization for the procession because Fuentes was politically "unreliable." In September, the Office of Religious Affairs of the Communist Party advised Fuentes, a Spanish national, that the Government would not extend his authorization to remain in the country.

In mid-July, Communist Party officials in the city of East Havana barred a procession for the feast day of the Virgin of Carmen because the parish priest was a friend of Christian Liberation Movement leader Oswaldo Paya. Communist Party officials told the priest that he should inform his congregation that the Government had barred the procession specifically because of his friendship with Paya.

The Government allowed 9 foreign priests and 18 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, as did a request from the Conference of Catholic Bishops for the Government to permit 15 Catholic orders to establish a presence in the country; the lack of approval limited the training of Cuban seminarians.

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. Religious literature and materials must be imported through a registered religious group and can only be distributed to officially recognized religious groups. 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 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government severely restricted freedom of movement. The Govern-

ment 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.

In early August, officers of the Ministry of the Interior in Pinar del Rio Province warned dissident Hector Ramon Novo Suarez that he could not travel to the city of Havana. The officials told Novo that he would be tried for "contempt for authority" if he ignored their instructions and traveled to 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.

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.

On March 24, police confiscated the exit permits of independent journalist Normando Hernandez and his wife Yarahy Reyes as they were preparing to leave the country. Police arrested Hernandez, subjected him to a summary trial and sentenced him to 25 years' imprisonment for alleged acts against the independence and territorial integrity of the State (see Section 1.e.).

The Government routinely denied exit permits to young men approaching the age of military service 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 a 1994 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 (for example, 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 approximately 5 years of a professional person's total peso salary and represented a significant hardship, particularly for political refugees who usually were marginalized. Many political refugees were fired from their jobs for being "politically unreliable" and had no income. At year's end, there were no refugees unable to leave the country because of inability to pay exit fees.

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 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, although citizens who departed after December 31, 1970, must obtain a costly passport to reenter the country. Persons who are at least 18 years of age are eligible to travel abroad and may remain outside the country for 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 which policy the Government actually was implementing.

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.” In practice, the Government has no formal mechanism to process asylum for foreign nationals. In practice, the Government provided protection against refoulement. The Government cooperated with the UNHCR, and provided temporary protection to a small number of persons. There was no information available on its use during the year.

A total of 29 persons applied for refugee status during the year, of which 11 were approved; according to the UNHCR, there were 836 refugees in the country.

*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. In 2002, the Government amended the Constitution to restrict further citizens’ rights to change the Government, making socialism the “irrevocable” basis of the Constitution. In March, President Castro declared his intent to remain in power for the rest of his life. 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.

On January 19, the Government held national elections in which 609 candidates were approved to compete for the 609 seats in the National Assembly. According to the official media, 97.6 percent of registered voters participated in the elections, and the candidates were voted in by 91 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 2½ years to elect 14,686 local representatives to the municipal assemblies, the lowest level of the Government’s structure. In 2002, 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. In 2002, 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 non-violent 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 irrevocable 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.

On October 3, Paya submitted a second Varela petition to the ANPP with over 14,000 signatures. Government officials detained persons working in support of Project Varela and retaliated against certain persons who signed the petition. At least 21 of the 75 activists sentenced to lengthy prison terms in April were Varela organizers. The authorities jailed all of the key figures in the Christian Liberation Movement with the exception of Oswaldo Paya.

On February 5, the Supreme Court suspended municipal judge Iosdel Trujillo Vivas of Santa Clara Province for having signed the Varela petition.

On June 18, officials expelled Yailen Labores Rojas from her job as an agronomy professor for having signed the Varela petition. Officials told her that she was removed for being "politically unreliable." Labores did not belong to an opposition organization.

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 Communist Party. There were 2 women in the 24-member Politburo and 20 in the 150-member Central Committee. Women held 218 seats in the 609-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. Following the selection of the new ANPP in January, government-run Granma reported that the National Assembly was 67 percent white, 22 percent black, and 11 percent mestizo.

#### *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. Public identification of suspected state infiltrators was a crime punishable by 8 to 15 years' imprisonment.

In April, authorities confirmed that 12 purported dissidents were in fact agents of the Ministry of the Interior. Those identified were Noel Ascanio Montero, Nestor Bager Sanchez, Odilia Collazo Valdes, Aleida Godinez Soler, Otuardo Hernandez Rodriguez, Ana Rosa Jorna Calixto, Roberto Martinez, Manuel David Orrio del Rosario, Yamila Perez Reyes, Pedro Serrano Urra, Pedro Luis Veliz Martinez, and Alicia Zamora Labrada. The 12 infiltrators testified against several of the 75 human rights activists and independent journalists subjected to summary trials in April.

In August, the Government released a book alleging that noted human rights monitor Elizardo Sanchez Santa Cruz, of the Cuban Commission for Human Rights and National Reconciliation, had been a state security agent since 1997. Sanchez denied having acted as a government agent, although he acknowledged having been in discussions with government officials for many years in an effort to negotiate improved human rights conditions.

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 acknowl-

edge requests by the Special Rapporteur to visit the country. On April 17, the UNCHR passed a resolution that expressed concern about the human rights situation in the country and repeated its earlier call to receive the visit of Christine Chanet, the personal representative for Cuba of the U.N. High Commissioner for Human Rights. At year's end, the Government had not allowed the representative to visit the country 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. The Government restricted the migration of persons found to be HIV-positive to sanatoriums for treatment and therapy before conditionally releasing them into the community.

*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 specifically 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), a mass organization affiliated with the Communist Party, 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 all children have the same rights under the law and notes the duties of parents to ensure their protection. 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.

Although not covered in the official media, there were occasional reports of child abuse; however, there was no societal pattern of child abuse. Police officers who found children loitering in the streets or begging from tourists frequently intervened and tried to find the parents. If a child was found bothering tourists more than once, police frequently fined the child's parents. Although work camps for adolescents still exist, the duration is considerably shorter than in the period before 1990. Students were pressured to enlist for up to a week of "volunteer labor" in rural areas.

Child prostitution was a problem, with young girls engaging in prostitution to help support themselves and their families. The police generally enforced laws on underage 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. Workers at some tourist facilities appeared to tolerate both legal and underage prostitution. The Government did not publicly acknowledge the prevalence of child prostitution; however, the Government prosecuted persons involved in child prostitution and child pornography and assisted other countries in international investigations of child sexual abuse.

*Persons with Disabilities.*—The law prohibits discrimination based on disability, and there were few complaints of such discrimination. 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 take precedence over individual workers' preferences. Established official labor organizations have a mobilization function and do 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, anti-union discrimination by definition did not exist.

The Communist Party selects the leaders of the sole legal labor confederation, the CTC, 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. On June 10, the International Labor Conference concluded that government law and practice were in violation of ILO Convention 87 on Freedom of Association. The Applications Committee of the International Labor Conference also called upon the Government to release trade unionists arrested in March and urged the Government to accept an ILO mission to verify labor conditions and to work with the Government to ensure full compliance with Convention 87. The Government rejected the Application Committee's conclusions and any possibility of an ILO mission.

In November, the ILO's Committee on Freedom of Association (CFA) criticized the authorities' recognition of only a single official union and prohibition of independent trade unions. The CFA also cited the absence of collective bargaining and the right to strike, the arrest and harassment of union members, government infiltration of independent unions, and illegal house searches. The CFA expressed particular concern regarding the arrests and lengthy imprisonment of seven union organizers in March and April and recommended that the ILO Direct Contacts Mission investigate the situation. The Government representative denounced the ILO and CFA as "stooges" of a foreign government and rejected any possibility of a Direct Contacts Mission.

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, were subject to infiltration by Government agents, and were unable to represent workers effectively or work on their behalf.

On April 5, the Havana City Provincial Court sentenced Pedro Pablo Alvarez Ramos, leader of the illegal United Cuban Workers Council, to 25 years' imprisonment for acts against the independence or the territorial integrity of the State. The sentencing document indicated Alvarez was convicted in part for having links to



international trade unions, including the Latin American Workers Central union and the Venezuelan Workers Central union, and for reporting workers rights violations to the ILO.

On April 5, the Havana City Provincial Court sentenced Carmelo Agustin Diaz Fernandez of the United Cuban Workers Council to 16 years' imprisonment for acts against the independence or the territorial integrity of the State.

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 virtually the only employer in the country. The law prohibits strikes, and none were known to have occurred during the year. 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 and diplomatic missions 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 are 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 in such centers were forced to work on farms or building sites doing construction, agricultural work, or metal work. The authorities often imprisoned noncooperative internees.

In September, a prisoner at El Anoncillo minimum-security prison reported that inmates were forced to perform agricultural work for 12 hours per day without remuneration. The prisoner stated that the food was poor and that there were no baths or medical facilities at the camp. Prison guards threatened to send inmates to a maximum-security prison if they failed to work and to place them in isolation cells if they complained.

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. Secondary school students were expected to devote up to 15 days of their summer vacation completing a variety of tasks ranging from farm labor to urban cleanup projects, and were paid a small wage for this labor. Students in post-secondary institutions (technical schools, university preparatory schools, and agricultural institutes) were expected to devote 30 to 45 days per year on mainly agricultural work. 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. The country has not ratified ILO Convention 182, but the Government adhered to Convention 182 standards concerning the elimination of the worst forms of child labor.

*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 \$6.35 (165 pesos); for a bilingual office clerk, \$7.30 (190 pesos); and for a gardener \$8.30 (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 approximately 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.). HRW 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.

In July, administrators at the Gerardo Abreu Fontan candy factory in Havana fired maintenance foreman Julian Diaz for refusing to work on a high-voltage power line without the proper safety equipment. Diaz requested assistance from the union representative, but the union representative advised Diaz not to challenge the firing or otherwise "make trouble" for the candy factory.

*f. Trafficking in Persons.*—The Penal Code prohibits trafficking in persons. Although there were no reports that persons were trafficked to or from the country, there were incidents of trafficking, in the form of child prostitution, within the country that were not reported in the official media.

The code also 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 (see Section 5).

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## 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 with largely ceremonial powers. Prime Minister Pierre Charles' Dominica Labour Party (DLP) prevailed in generally free and fair elections in 2000. The DLP holds a majority coalition in the Parliament. The judiciary is independent.

The Dominica Police—the only security force—was controlled by and responsive to the democratically elected Government. Some members of the security force committed human rights abuses.

The country's primarily agrarian, market-based economy depended heavily on earnings from the declining banana industry. The country had a population of approximately 72,000. The Government's efforts to market the island as an ecotourism destination produced mixed results, and the economy contracted by 4.7 percent in 2002. There was a high external debt, and the International Monetary Fund estimated the unemployment rate at over 26 percent at year's end.

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.

## 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 have a formal complaint procedure to handle such allegations (see Section 1.d.). During the year, the police force received 50 complaints, of which 1 was sent to the Director of Public Prosecution (DPP) for consideration of possible charges, 3 were referred to the Police Service Commission for action, 1 warning was issued, 1 officer was found guilty, 15 were dismissed for lack of evidence, and 29 cases remained pending at year's end.

Prison conditions were poor. Overcrowding and unsanitary conditions continued to be problems in the prison, which held 243 prisoners at year's end in a 60-year-old facility designed to hold 60 to 80 inmates. 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 had 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 440-person police force was stretched thin and was understaffed by approximately 50 persons. Public complaints against the police are reviewed by the Deputy Police Commissioner, who initiates an investigation. After the investigation, a tribunal is formed to review the information and, if appropriate, it is referred to the DPP of the Police Service Commission for internal resolution. The Welfare Department has provided training on child abuse to the police Criminal Investigation Division, which handles these complaints. The police force last received human rights training 2 or 3 years ago.

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 are presumed innocent until proven guilty, are allowed legal counsel, and have 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 three 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 were also two independent radio stations owned by private companies and a Christian radio station. 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.

For a more detailed discussion, see the 2003 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 has not done so in the past several years.

The Government has not formulated a policy regarding refugees or asylum. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

*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, is composed of 21 parliamentary representatives and 9 senators. The representatives are 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 DLP 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 government 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 are 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 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 and provided to approximately 150 persons. 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. The Catholic Church continued to be active in educating the public about domestic violence.

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 dies without a will, the wife may not inherit the property or sell it, although she may 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. The Welfare Department estimated that there were over 200 cases of child abuse during the year, compared with 189 in 2002. The Department also reported that through September there were 52 reports of child sex abuse, of which 21 involved incest. There was an increase in the number of child abuse cases in the Carib reservation. The Welfare Department believed that the increase in reported cases throughout the country was due to the Government's plan outlined in its Child Abuse Report and Procedures and a few highly publicized brutal child abuse cases, which greatly increased awareness of the problem.

Although the maximum sentence for sexual molestation (rape, incest) is 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 People.*—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; the police assigned there were generally 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 the Carib Model Village to showcase Carib culture; however, it was not yet open to the public.

The reservation is governed by the 1978 Carib Act. This act states that any child of a Carib Indian is also Carib. Non-Caribs may become Carib Indians if they are invited to live in the territory with a Carib and then do so for 12 years. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and six members of the Council of Advisors (they also are 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 had not yet changed. 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, does 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 land as collateral for loans.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers have the legal right to organize, to choose their representatives, and to strike. Unions represented approximately one-third of the total work force, although slightly over half of government workers were unionized.

The law prohibits anti-union discrimination by employers, and judicial authorities enforced union rights. In addition, employers must reinstate workers fired for union activities; however, unions were concerned that this law was not being honored. Both the National Workers Union and the Waterfront and Allied Workers Union pursued separate cases on behalf of shop stewards who the unions alleged were dismissed for union activities. These two cases remained unresolved at year's end. The law also requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures, and this requirement was honored in practice. Department of Labor inspectors, under the supervision of the Labor Commissioner, enforce labor legislation.

All unions were independent of the Government. While there were no direct ties, members of certain political parties dominated some unions.

Unions may and do 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.

Workers have the right to strike; 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 International Labor Organization (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 Industrial Relations Advisory Board, which is composed of union members, government representatives, and private businessmen, advised the Minister of Labor to amend this legislation and remove the coconut and citrus industries from the definition of "essential services." By year's end, the Government had not taken any action to amend this legislation.

In February, the Public Service Union led an 8-day strike that severely affected government business to protest the Prime Minister's cost-cutting proposals, which involved salary reductions. Further demonstrations and sick outs were held in March, causing the temporary closure of the airports when the Government announced that it would not pay the workers that went on strike in February. The Public Service Union brought two court challenges to this government action, but no hearing date had been set by year's end. Additional demonstrations occurred in June and July to protest the additional cuts in the Government's budget. Unions reported that the demonstrations were peaceful, and there was no difficulty in obtaining permits for the demonstrations in advance.

There are 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. The Government has ratified the ILO Minimum Age

Convention, specifying 15 years as the minimum age for employment, and abides by this standard in principle.

*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 have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

*f. Trafficking in Persons.*—In November, the Immigration and Passport Act was amended to state "a person is guilty of an offense of human trafficking if that person assists any other person to enter or leave Dominica in an unlawful manner." A person convicted of such an offense is liable for a fine of \$37,500 (EC\$100,000) and/or imprisonment of up to 7 years. There were reports that migrants were smuggled through Dominica to St. Maarten. There were no reports that persons were trafficked to, from, or within the country.

The country has an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$75,000 to \$100,000 (EC\$200,000 to 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. The Government refused to end the economic citizenship program, despite complaints from the Governments of Canada, Australia, and the United States. Since the beginning of the economic citizenship program in 1996, the Government estimated that over 700 applicants received citizenship. During the year, 15 persons purchased citizenship, compared with 85 in 2002.

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## 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, with 29 of 32 seats, and held 72 out of 150 seats in the Chamber of Deputies, 4 short of an absolute majority. The Constitution provides for an independent judiciary; however, interference from outside authorities 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) form the security forces. The military's domestic responsibilities include maintaining public order and protecting persons and property. The police are under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which had personnel both from the police and from the military, report 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. Some members of the security forces committed a number of human rights abuses.

The market-based economy continued to diversify. The country has a population of approximately 8.8 million, including an estimated 650,000 undocumented Haitians. Tourism, telecommunications, and exports from Free Trade Zones (FTZs) were major sources of foreign currency and providers of employment. Remittances from abroad were more than \$2 billion during the year. As a result of the collapse of a large commercial bank, followed by several smaller bank failures, the economy contracted by 1.3 percent. Central Bank intervention to protect depositors sharply increased the money supply and the fiscal deficit, causing a depreciation in the peso/dollar exchange rate. According to the Central Bank, inflation was 43 percent. Unemployment was estimated at 16.1 percent but was probably higher. Income distribution in the country was highly skewed.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Members of the security forces continued to commit unlawful killings. The police and, to a lesser degree, the military tortured, beat, or otherwise abused detainees and prisoners. The Government referred 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 efforts to consolidate its independence and to 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 and editors often practiced self-censorship. Police on several occasions used excessive force to disperse demonstrators. The Government restricted the movement of Haitian and Dominican-Haitian migrants and forcibly expelled some of them. Other serious problems included violence and discrimination against women; child prostitution; abuse of children; discrimination against persons with disabilities; child labor; and severe discrimination against and abuse of Haitian migrants and their descendants. There continued to be reports of forced labor. Many workers continued to face unsafe labor conditions. Trafficking in persons was a serious problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, members of the security forces committed many killings that were unlawful, unwarranted, or involved excessive use of force. The National Commission on Human Rights reported approximately 250 extrajudicial killings, the National Police reported approximately 150, and the Dominican Committee for Human Rights reported 292 such killings. Greater precision was not possible, because accounts of incidents varied and some went unreported.

In the majority of killings by police, the police stated that the deaths resulted from an exchange of gunfire in the course of an arrest, requiring officers to act in self-defense. A number of eyewitness accounts matched police reports; others did not. In a few cases, the police rearranged the crime scene to make it appear as if deadly force had been required for self-defense. For example, in September police officer Cristino Alvarez Ventura killed a youth in a case of mistaken identity. Realizing he had killed the wrong person, Alvarez planted a revolver in the victim's hand to back his claim of self-defense. Public outcry prompted an investigation by a police commission, which determined that Alvarez was the sole person responsible for the killing. The case is expected to be tried in a civilian, rather than a police or military, court.

In September, police officer Rubio Blondy and another officer killed a 22-year-old in another case of alleged mistaken identity. According to relatives, the victim showed his identity card to police officers before being shot while having a snack at a cafeteria in Santo Domingo. In December, the case was sent to the civilian Court of Instruction in the National District.

In October, two off-duty police officers, Abel Garcia and Luis Castro Concepcion, shot and killed an advertising agent in San Francisco de Macoris. The authorities sent the case to a police tribunal, and a hearing was scheduled for February 2004.

The new National Police Chief, appointed in 2002, submitted several cases of human rights abuses committed by members of the National Police and armed forces to civilian criminal courts. The National Commission on Human Rights reported that in the first 11 months of year, authorities remanded 114 members of



the National Police to courts on accusations of extrajudicial killings. Of these, 79 were remanded to civilian courts.

Human rights organizations stated that the police employed unwarranted deadly force less often against criminal suspects than in previous years, although uniformed vigilantism persisted on a less-than-deadly level. Criminals who refused to pay police “commissions”—bribes to ignore criminal activity—were sometimes beaten or shot in an appendage rather than killed. The lack of qualified investigators and the nontransparent conduct of investigations of killings in “exchanges of gunfire” resulted in impunity in a number of cases.

A significant number of deaths occurred in custody due to negligence by prison authorities (see Section 1.c.).

Private Eduardo Ortiz Delgadillo, who allegedly killed a bus driver in March 2002, was free on bail at year’s end. His case was in the 7th Penal Court in Santo Domingo, but a hearing had not yet been scheduled.

Police officer Carlos Manuel Ramirez Herrera remained in Najayo prison for the April 2002 killing of a youth during a protest. His trial was pending in the San Cristobal court of instruction.

There was no further action in the case of the military officers accused of killing Reformist Social Christian Party (PRSC) activists in May 2002.

Police lieutenant Juan Bautista Berroa and his accomplices remained in a prison in San Francisco de Macoris for an unlawful killing in May 2002; their trial remained pending.

In February, a court sentenced police officer Demetrio Mario Leonardo to 12 years in prison and ordered him to pay \$60,000 (3 million pesos) in damages for an unlawful killing committed in 2001.

In November, the trial began of police Private Francisco “Tyson” and codefendant Sergeant Medina Medina, charged with a 2001 killing. A civil court ordered Tyson jailed at the Special Operations Camp in Manoguayabo; Sergeant Medina Medina was free on bail.

Pedro Encarnacion Baez, charged with the 2001 killing of Carmelo del Rosario, has been free on bail since December 2002. His case was assigned to the Court of Instruction in La Romana.

In July, the Appellate Court gave its verdict on the appeal of the 30-year sentences of retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and civilian Luis Emilio de la Rosa Beras, convicted in 2000 for the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. De la Rosa, Pou Castro, and Cabrera Duran were sentenced to 10, 12, and 15 years respectively. Each defendant was also fined \$100,000 (5 million pesos). The Appellate Court judges did not find the Government culpable and did not fine the State the requested \$2.4 million (120 million pesos). The Santo Domingo Human Rights Institute requested that the Government submit the Martinez case to the Inter-American Commission on Human Rights (IACHR) for review; the Government did not follow through on that request.

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

In 2002, 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 1994. The judge excluded two other individuals, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although in 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. The defendants continued working in various capacities for the Government. There was no action on the family’s complaint to the 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. 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 reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse. More than 20 young men suffered severe knee injuries or amputations due to police violence. The Dominican Human Rights Committee received multiple complaints of torture from detainees at the De-

partment of Theft at police headquarters in Santo Domingo, as well as from prisons in Mao, Barahona, Azua, and Santiago.

According to human rights organizations, both the National Police and prison officials 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 called "the toaster," in which guards laid shackled prisoners on a bed of hot asphalt for an entire day and beat them with a club if they screamed. Human rights advocates described a police practice called "golpe de pollo" in which police beat a person's ears until they bled. Another torture method was that of enclosing detainees in water cisterns for lengthy periods.

In January, a police officer from Bani was videotaped as he removed a prisoner from a holding cell, took him to the patio area of the police station, then hit the prisoner on the face, head, and buttocks in front of an audience of local residents. The authorities arrested the police officer and sent the case to a police tribunal in Santo Domingo. The tribunal dismissed all charges, and the officer remained on the force.

In June, the sister and female friend of a man accused of hotel robbery reported that police Lieutenant Valenzuela tortured and beat their accused relative in custody (see Section 1.d.).

According to the National Commission on Human Rights, military and police officials were reported to beat, torture, and randomly deport Haitians living in the border towns of Pedernales and Elias Pina (see Section 2.d.).

Police Colonel Francisco Beras Santos, accused in 2002 of torture and sexual violation of a woman in his police station, was free on bail. His court hearing was rescheduled several times and remained pending at year's end.

The National District Prosecutor's office had a 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.). This program remained geographically limited, principally 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 rather than attempt to raise these practices to constitutional standards. In some instances, authorities interpreted the presence of prosecutors as meaning that detainees could be held more than 48 hours after being transferred from "police" custody to "prosecutorial" custody (see Section 1.d.).

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. 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 groups engaged in smuggling (see Section 6.f.). In April, the Court of Instruction determined that Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien) should stand trial on charges of alien smuggling. In June, Garcia lost an appeal to throw out the charges. Garcia evaded arrest for months until Congress reconvened August 16 and remained free, citing parliamentary immunity. On October 22, the Supreme Court began trial proceedings and referred the case to criminal court on October 30, where a further hearing was held on December 3. When a translator for two non-Spanish speaking defendants did not appear, the court postponed the trial until January 2004.

Human rights courses were offered in the training curriculums for military and DNCD 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. More than 3,000 members of the military received training during the year. In August, the Institute published a book about human rights and the role of the military, written by its Assistant Academic Director. However, monitoring and sanctioning systems for abuses of human rights remained ineffective.

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 under-funded. 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 unless they paid bribes to the

guards (see Sections 1.d. and 1.e.). Prisons employed few physicians and had few medical supplies. Prisoners immobilized by AIDS or terminally ill were not transferred to hospitals, but some terminal-stage inmates were released to spend their last days at home.

According to the Attorney General's office, the police and the military held more than 14,500 prisoners and detainees in 34 prisons with a total intended capacity of approximately 9,000 persons. The military operated 21 prisons with a total of 5,084 prisoners, and the National Police operated 13 prisons, with a total of 9,557 inmates. A warden was responsible for running each prison and reported to the Attorney General through the General Directorate of Prisons. A police or military colonel (or lieutenant colonel), generally appointed for a period of only 3 to 6 months, was responsible for providing security and notionally reported to the warden. 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. Individual inmates could secure a tolerable level of existence only by paying for food, sleeping space, and medical care.

Virtually all prisons experienced extreme overcrowding. At La Victoria prison, the largest in the country, up to 150 inmates were placed in cells designed to hold 24. Prisoners complained of having to sleep in bathrooms due to lack of space. The media reported a riot at a prison in Moca, provoked by the death of a neglected inmate, by lack of medical care, and by overcrowding. During the year, other prisoners died due to negligence. The press and human rights groups also reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors. The DNCD reported finding significant amounts of crack cocaine, heroin, marijuana, and weapons in a cell at Rafey prison in Santiago.

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 to obtain it from family members. 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.

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.

Female inmates were separated from male inmates. In general, conditions in the female prison wings were better than those in male prison wings. There were some reports of guards abusing female inmates physically and sexually. There were also reports that in the Najayo prison, guards forced women into prostitution in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them for 1 year.

The law requires that juveniles be detained separately from adults; however, juveniles often were mixed with the general population. The authorities sometimes treated minors as 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.

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 police 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. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

The National Police, numbering more than 27,000, serve throughout the country; there are no separate municipal forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The Institute of Human Dignity, a branch of the National Police, monitors human rights abuses committed by members of the National Police. Chief of Police General Jaime Marte Martinez assumed control in January 2002 with an emphasis on professionalism and a mandate to reduce police abuses of human and civil rights. As of October,

more than 1,800 members of the National Police had participated in human rights and dignity workshops.

Police officers were fired for violent attacks, extortion, and drug use. Significant problems of this nature remained, in part because of insufficient vetting of the backgrounds of police recruits. It was alleged that many persons with prior criminal records were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to the extrajudicial or unwarranted killings (see Section 1.a.).

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 well beyond the 24-hour limit for minors, which was attributed 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.

Most detainees and prisoners could not afford adequate defense services. Several nongovernmental organizations (NGOs) offered limited legal services free of charge. The program of the Commissioner for the Reform and Modernization of Justice, which had lawyers to defend persons at no charge, ceased operation in February due to lack of funds from the central government’s budget. In May 2002, the Supreme Court created a National Office of Judicial Defense to provide legal advice and representation to indigent persons. Foreign donors supported this program. As of January, 14 lawyers had completed the office’s training program; they were the only public defenders in the country and served only Santo Domingo and Santiago. The Supreme Court paid the public defenders’ salaries without additional funding from the Government. The Supreme Court also paid 100 part-time defense lawyers; these lawyers rarely communicated with defendants prior to scheduled court appearances and were not properly trained.

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. In general, few defendants were granted bail.

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. Following the indiscriminate arrests, 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. 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 the cases (see Section 1.c.). Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

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. For example, in June, police officers detained the sister and female friend of a man accused of hotel robbery in the Villa Consuelo sector of Santo Domingo, allegedly to elicit a confession. The victims reported the incident to the Dominican Center for Legal Advice and Investigations (CEDAIL).

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. According to the General Directorate of Prisons, 70 percent of the national prison population were “prisoners without sentences,” an increase of 3 percent from 2002. The average pretrial detention throughout the country was well over 6 months. Time served in pretrial detention 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.

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 proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; 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. In some instances, a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately discriminated against a defendant who complied with the law.

In 2002, the Supreme Court 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. The program, which should help relieve prison congestion, began at San Cristobal Najayo jail and expanded to La Victoria prison, the largest jail in the country, and to the prison in Monte Plata. From January to September, these courts decided 622 of the 758 cases presented, leaving only 136 cases pending. The Supreme Court also established mobile courts of instruction.

The law prohibits forced exile, and there were no reports of its use. However, some persons who asserted that they were citizens were expelled to Haiti (see Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, public and private entities persisted in attempts to undermine judicial independence. The judiciary received training funded by foreign donors, designed to improve its ability to resist outside interference, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle contentious administrative, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The Government has established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The revised Code for Minors, signed into law in August, outlines the judicial system for criminal cases involving juveniles and family disputes. The new code also sanctions juveniles who commit crimes with penalties of 1 to 3 years' detention in a juvenile prison for adolescents who were 13 to 15 years old at the time of infraction and 1 to 5 years for adolescents who were 16 to 18 years old (see Section 5).

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, many cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see Section 1.a.). The judiciary was slow to adjudicate these cases despite continuing donor-assisted judicial reform programs. Nonetheless, human rights groups agreed that the practice of remanding cases involving human rights abuses committed by members of the security forces to civilian courts was becoming established.

The judicial system is based primarily on the Napoleonic Code. Judges, rather than juries, render all verdicts. The investigative process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution requires that arrests be made on judicial warrant except when the suspect is caught in the act. It establishes the citizen's 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 violations of these rights occurred when police detained suspects, sometimes for many days, without allowing them to contact family members, while subjecting them to frequent questioning (see Section 1.d.). Although accused persons were entitled to have an attorney present, police often did not permit them to contact legal counsel. If an attorney was engaged, a police officer might not permit him or her to be present during questioning. Torture frequently was used to coerce a confession during questioning (see Section 1.c.). Under these circumstances, suspects might confess under duress to acts that they had not com-

mitted. The results of these interrogations often constituted the only evidence presented at the trial.

The remedy of “amparo,” an action any citizen may bring for violation of a constitutional right, including violations by judicial officials, has been applied in accordance with the terms of the American Convention on Human Rights. The Military Human Rights Institute published a book for its students about the military’s role in protecting human rights and the traditional use of an amparo. Alternative dispute resolution is used in some criminal matters, but without any legal basis.

In 2002, the Government adopted a new Criminal Procedures Code intended to replace the Napoleonic system. The new code supports an accusatory system that should accelerate the processing of criminal cases. The code also can be interpreted as providing that any crime may be tried in civilian court; this would imply that military or police tribunals should be used only for disciplinary actions. In November, the Attorney General’s Office and the Supreme Court each issued resolutions to effectuate changes required by the new code. The changes include a system under which police and prosecutors are required to read defendants their rights upon arrest; creation of an alternative dispute resolution mechanism to deal with certain crimes; the requirement that judges issue public oral dispositions on petitions for bail and in cases in which the maximum penalty is less than 3 years of incarceration; and the physical relocation of the defendant and defense counsel within the courtroom so that they are collocated with the prosecutor. The Attorney General’s office and the judiciary also instituted “on-call” judges to provide 24-hour support to police who require immediate attention in the issuance of arrest warrants. The new code is scheduled to be fully implemented in September 2004.

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 except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. All other entrances require a judge to issue an arrest or search warrant; however, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess.

Although the Government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active but illegal private wiretapping industry.

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

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were instances of official intolerance of the media.

Newspapers and magazines presented a diversity of opinion and criticism. At the beginning of the year, there were eight daily and seven weekly newspapers and three weekly magazines. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The Government controlled one television station.

The Inter-American Press Society criticized the judicial takeover of the media outlets owned by defunct bank Baninter, including Listin Diario, El Expreso, television channels 13 and 27, and radio station RCC. All of the editors of these outlets resigned and were replaced by government-appointed personnel. Ramon Baez Figueroa, majority shareholder of Baninter and Listin Diario, was the subject of an ongoing criminal investigation for fraud and money laundering. Baez Figueroa, arrested but freed on bail, petitioned the courts to return the media outlets to him, but the case was pending in the courts at year’s end.

In July, the DNI detained two radio broadcasters for slander against the President. During their radio program broadcast in Monte Cristi, located in the far northwest corner of the country, the hosts asked their listeners to rank the chances of the leading contenders in the 2004 presidential election in a race with the devil. President Mejia lost to the devil in the radio poll. The radio hosts were released after several days. The Inter-American Press Society criticized the arrest and accused the Government of official intolerance toward the press.

In November, a television broadcaster with close ties to the opposition PLD party lost his job after he reported that the Secretary of the Armed Forces was handing out money to potential PRD voters. According to the broadcaster and the Dominican

School of Journalists, the Government pressured the broadcaster's employer to fire him. The employer confirmed the dismissal but said it was simply an internal company decision not to retain his services.

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, police officers used force to break up demonstrations on several occasions during the year, sometimes causing deaths and injuries.

In September, many persons were injured during protests against extensive power outages. A 15-year-old boy was shot and killed when police attempted to disperse crowds in a Santo Domingo neighborhood. In November, during a national general strike, at least 8 persons were killed and 34 wounded; police arrested over 500 protesters, most of whom were released within 48 hours. Prior to the general strike, police arrested approximately 100 persons for attending organizational meetings.

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 Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed with the Government in 1954. For example, the Cardinal has the rank of a military officer, and there is a Catholic church at the Presidential Palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities. However, a complete waiver of customs duties on imports is extended to all religious denominations.

For a more detailed discussion, see the 2003 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 for police regulations pertaining to immigration and health, and the Government generally respected these provisions in practice; however, there were some exceptions. For example, human rights groups alleged that many Haitians were not allowed to leave the sugar cane plantations where they worked. Police officers 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, who were subject to arbitrary and unilateral action by the authorities. According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to accept bribes from Haitians attempting to cross illegally.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, some legally but the vast majority without legal documents. The Ministry of Labor estimated that 47 percent of Haitians in the country had arrived by walking across the border. According to the Socio-Cultural Movement of Haitian Workers (MOSCTHA—a human rights NGO), 98 percent of Haitians in the country were undocumented. Government officials assisted some illegal migration in return for payments. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. The Directorate of Migration repatriated more than 12,000 Haitians during the year; more than 180 were officially deported. Many NGOs and international organizations believed the number of repatriations was higher. In some cases, the Government denied those repatriated the opportunity to demonstrate that they were legal residents or to make arrangements for their families or property. Some human rights groups reported that mass deportations occurred less frequently but that abuse of Haitians worsened.

Although the Constitution provides that anyone born in the country is a citizen, except those in transit (which is interpreted to include Haitian migrants) or children born to diplomats, NGOs and Catholic priests familiar with the process protested that children born of Haitian parents in the country generally were denied registration as citizens and were among those deported as illegal Haitians (see Section 5).

In December 2002, 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. On October 16, the Court of Appeals for Civil

Matters upheld the lower court's decision. By year's end, however, the board had not provided the birth certificates, and the lawyers petitioned the Supreme Court to intervene.

NGO representatives working in rural areas alleged that decisions to deport often were made by lower-ranking members of the security forces in conjunction with sugar cane consortium owners, sometimes based upon racial characteristics. Such officials approached persons who looked like Haitians, including persons who had very dark complexions and fairly poor clothing, and engaged them in conversation. If the officials considered that these individuals spoke Spanish poorly or with a noticeable accent, they might detain and deport them. Many NGOs reported that random deportations continued to occur at the end of the sugar cane harvest in order to avoid paying full wages to deportees (see Section 6.e.). Sugar cane companies permitted security guards in work camps to work with military contacts to "round up" and deport Haitian laborers.

While the Government had a policy of strictly enforcing documentary requirements and repatriating 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. An individual stopped as a suspected illegal Haitian migrant might be allowed to remain in the country despite lack of documentation, either through bribery or if an account of employment satisfied the official.

NGOs and Catholic priests reported corruption among the military, migration authorities, and other border officials and noted that these government representatives sometimes allowed illegal Haitian workers into the country. For example, one Catholic priest alleged that members of the armed forces along the border allowed more than 20,000 workers to cross the border each harvest season to be "sold" to sugar cane companies at \$20 (1,000 pesos) per person.

The law provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol. Although there is legislation and a structure to process refugee claims, the system for implementing the law and determining refugee status did not function properly. The Government did not apply standards agreed upon with the U.N. High Commission on Refugees (UNHCR) to improve receipt and adjudication of refugee claims. To help the Government in this regard, in July the UNHCR strengthened its protection activities in the country by re-establishing its presence in Santo Domingo.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees (CONARE), which is chaired by the Foreign Ministry. The subcommittee has the responsibility of making a recommendation to the commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The commission, with responsibility for the final decision on the application, includes 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, the Migration Directorate said that there were 235 pending applications awaiting decision, nearly all by Haitians. Some of these cases have been pending since 2000, when the UNHCR stopped processing cases. According to the UNHCR, there were potentially 600 recognized refugees in the country, most of whom lacked sufficient documentation that would allow them to legally work and access other rights.

Individuals who have gained access to the refugee process and have been issued proof that they are refugees or have applications pending are generally protected from refoulement; however, at least two cases of potential refoulement occurred in 2002. The UNHCR reported the cases to CONARE but never received a response.

### *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, and citizens exercised this right in practice in generally free and fair elections held on the basis of universal suffrage, most recently in congressional elections in May 2002.

The President and all members of the Senate and the Chamber of Deputies are elected freely on 4-year cycles by secret ballot, as well as mayors and city councils. There is universal adult suffrage; except that active duty police and military personnel may not vote nor may they participate in partisan political activity. However, during the year senior military officers publicly expressed their support for President Mejia's reelection.



Voting is restricted to documented citizens. The Central Electoral Board conducts all elections. In 2002, the legislature adopted constitutional reforms affecting the electoral system, including a provision that the President may be reelected one time.

Congress provided an open forum for the free exchange of views and debate. The main opposition party was the Dominican Liberation Party, 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 the late 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 exercised his authority through the use of the veto, through presidential decrees, and through influence as the leader of his party. 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 for women 33 percent of positions on their lists of candidates for city councils; in practice, 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 and Minister of Education. One woman served in the 32-member Senate; women held 24 seats in the 150-member Chamber of Deputies; and a woman presided over the Chamber until August. Women served in a limited number of appointed positions, including two other cabinet positions. 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 responsive to their views. Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (addressing the Narciso Gonzalez case). In addition, several Haitian groups existed, representing church, women's, and labor interests.

A 2001 law created a human rights ombudsman's office, but selection of a person to fill the position was still pending at year's end. According to the law, the Chamber of Deputies nominates three individuals for Senate approval. The Senate did not approve any of the three nominations submitted by the Chamber early in the year and instead nominated its preferred candidates. In August, leadership of both houses changed and the process stalled. The law provides that the Ombudsman is appointed for 6 years, with authority over public sector problems 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 considered to be worse than in previous years. Several newspaper articles reported a more violent society, and many government officials publicly denounced the problem. NGOs estimated that 40 percent of women and children were victims of domestic violence. It was estimated that at least 15 women died monthly from domestic abuse; however, many cases were unreported. 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 \$10 to \$2,000 (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 for the legal support and forensic examination of abused women in Villa Juana (Santo Domingo) received 13,111 domestic violence cases during the year; the Secretariat of Women received 4,602 complaints during the first 6 months of the year. There were no shelters for battered women.

According to government statistics, 129 women were killed in "crimes of passion" by their spouses or lovers, compared with 119 victims in 2002. NGOs estimated that spouses or lovers killed more than 200 women during the year. The Department of Family and Children in the Prosecutor's Office processed 11,600 domestic violence complaints, compared with 5,906 cases in 2002.

Rape was a serious problem and was widely underreported. The Santo Domingo District Attorney's office received 2,000 rape or sexual violation complaints during the year. The penalties for committing rape are 10 to 15 years in prison and a fine of \$2,000 to \$4,000 (100,000 to 200,000 pesos). The State may 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.

Prostitution is illegal; however, the Government usually did not enforce prostitution laws. Sex tourism grew throughout the country as the number of international visitors increased. Several human rights groups reported increased prostitution in sugar cane work camps. NGOs conducted programs on HIV/AIDS and sexually transmitted disease for hotel and industrial zone workers, male and female prostitutes, 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 who derived profit from prostitution. Trafficking in women was a problem (see Section 6.f.).

The law prohibits sexual harassment in the workplace; however, the law was not enforced and sexual harassment was widespread. The International Labor Rights Fund estimated that 40 percent of female workers in the free trade zones were victims of sexual harassment by supervisors or coworkers. Labor unions criticized the Ministry of Labor for lack of training about sexual harassment and nonimposition of penalties.

Either spouse may obtain a divorce, and women may hold property in their own names. Traditionally, women have not enjoyed 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, and that female employees who became pregnant were sometimes fired (see Section 6.a.).

*Children.*—The Government was committed to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. In August, the Government modified and republished the Code for Minors. The new law recognizes the National Council for Children and Adolescents (CONANI) as the non-Cabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the new code. The new law stipulates CONANI is to receive 2 percent of the national budget and that 5 percent of municipal government budgets must be devoted to projects to benefit children.

Although the Code for Minors mandates a minimum of 8 years of formal education, there were no legal mechanisms to induce parents or guardians to send children to school after primary schooling. Children of Haitian descent experienced difficulties gaining acceptance to schooling due to their lack of official status.

The new code contains strengthened provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see Sections 6.d. and 6.f.). 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.

Abuse, including physical, sexual, and psychological abuse, was a serious human rights violation against children. The Department of Family and Children in Santo Domingo reported receiving at least five child abuse complaints daily, half of which were abuses against children under age 12. More than 27,000 minors were victims of sexual abuse, domestic violence, or psychological abuse. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, and lack of knowledge regarding available legal assistance. In 60 percent of the cases, the accused was a person close to the child, such as a family member 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 \$2,160 to \$4,320 (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 there were 403 births to adolescents under age 15 during the year; 5,790 births were reported to adolescents between the ages of 15 and 19. Some undefined portion of these resulted from rape or incest. The ministry believed these numbers were underreported due to deteriorating economic conditions and lack of focus on intrafamily issues.

In the National District, the Department of Family and Children in the Office of the Prosecutor arranged counseling and mediation for family conflicts, the execution of court decisions with respect to child protection, and interviews with children whose rights had been violated. The new code outlines detailed procedures for tribunals and courts regarding family law and adolescents who have committed crimes

(see Section 1.e.). The new code also obliges public institutions to respect the human rights of children.

Trafficking and sexual exploitation of children was also a serious problem, especially in popular tourist destinations (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. Some of these minors were lured from their parental homes; others were already on the street.

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 parents used meager resources to care for younger siblings. 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.

*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. Of their own volition, some business owners provided physical access for persons with disabilities. There was a Department 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. Virtually no effort was made to design public works so as to accommodate persons with disabilities.

The Dominican Rehabilitation Association, which received an estimated 30 percent of its budget from the Government, had 17 affiliates throughout the country and provided services for 2,000 persons daily. Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

*National/Racial/Ethnic Minorities.*—Many Dominicans hold strong prejudices against Haitians, a fact which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made it more difficult for those Haitians already in the country to live peacefully or legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

Approximately 650,000 Haitian immigrants—or 7.5 percent of the country's population—lived in shantytowns or sugar cane work camps known as bateyes, in harsh environments with limited or no electricity, running water, or schooling. This estimate was confirmed in the International Organization for Migration's (IOM) Haitian Population Survey completed in July. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions as modern-day slavery. Medical assistance was not readily available in most bateyes. Housing in the bateyes was poor; most individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of five or more shared living quarters that measured as little as 10 feet square.

Some individuals estimated that as many as 1 million Haitians lived in the country, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti with their offspring born in the Dominican Republic. Human rights groups regularly charged the Government with unlawful deportations of these immigrants and police brutality toward them. Most of these immigrants resided in the country illegally and 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. The Movement of Dominican-Haitian Women (MUDHA) reported that nationals of other countries were allowed to present driver's licenses or passports as identification when seeking to reg-

ister births or to obtain nationality, and that Haitians were the only nationals required to present a Dominican identity card.

Lack of documentation sometimes deprived children of Haitian descent of the opportunity to attend school, even where there was one available. 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; however, this did not help children whose parents had no documentation or only Haitian identification papers. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children. According to MOSCTHA, 40 percent of Haitian children never attended school.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange, the birth parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted 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 3,560 registered unions in the country, but an estimated 75 percent were inactive. The 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 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 inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of widespread intimidation by employers in an effort to prevent union activity, especially in the FTZs (see Section 6.b.). The International Confederation of Free Trade Unions asserted that in the Santiago free trade zone, black lists of labor activists were circulated to discourage companies from hiring union workers.

The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) continued to report significant anti-union activity at the FM company in Santiago, 1 of 22 production facilities belonging to apparel manufacturing firm Grupo M, the largest private sector employer in the country. FEDOTRAZONAS reported instances of violence and intimidation against workers seeking to organize Grupo M to the International Finance Corporation, and Grupo M agreed to meet with FEDOTRAZONAS to discuss problems at the FM company. As of year's end, the FM company still refused to allow its employees to unionize, but its parent company had begun talks with FEDOTRAZONAS. An FM company supervisor, Miguel Andres de Leon, brutally beat an employee for attending labor union organizing meetings. The Ministry of Labor investigated the allegations; the investigation's outcome was pending.

According to the Dominican Solidarity Center, in 2002 the FTZ company Ramsa in Santiago fired approximately 140 employees without cause when they sought a collective bargaining agreement. Four women alleged Ramsa fired them because they became pregnant. The Secretariat of Labor cited Ramsa for violating the Labor Code, including maternity rights violations, and charged the company with violating the Penal Code. The initial hearing on the matter was held in January; the case was still pending in a labor court at year's end.

Labor unions could and did affiliate freely regionally and internationally.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is legal and must take place in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, some workers 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 Ministry of Labor claimed that several disputes were settled out of court.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Formal requirements for 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. Government workers and essential public service personnel are not allowed to strike. Brief work stoppages and unofficial strikes were more common.

A few labor unions, such as the Autonomous Labor Confederation (CASC), represented a small number of Haitian workers. According to CASC, Haitian laborers in the rice and coffee industries were better protected than those involved with sugar cane or construction and earned wages equal to those of local citizens. CÉDAIL acknowledged that the Labor Code protects foreigners, including Haitians, regardless of legal status. Some NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights under the Labor Code, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 190,000 workers. According to the National Council of Labor Unions, only 15 of the 180 unions registered in FTZs were active; 6 had achieved collective bargaining agreements. In August, Loadway Enterprises in the Bonao FTZ signed a collective bargaining agreement; this was the first one signed in an FTZ since 1997. 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 covert 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. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see Section 6.a.). FENATRAZONAS estimated that only 3 percent of the workers in the FTZs were unionized. In recent years, employer resistance to union organization, especially in the FTZs, has increased in response to increased competitive pressure from firms in Central American countries and China.

Many of the major manufacturers in the FTZs had voluntary “codes of conduct” that included worker rights protection clauses; however, these were not necessarily aligned with the ILO’s Fundamental Principles and Rights at Work. Workers rarely had heard of such codes or the principles they contained. There was no indication that workers received training about the codes, that workers had any effective means of asserting their rights under them, or that 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, affecting both adults and children. 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, existed (see Section 6.f.).

The FENATRAZONAS noted that mandatory overtime in the FTZ factories was a common practice. Some workers 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 and the new Code for Minors prohibit employment of children less than 14 years of age and place restrictions on the employment of children under the age of 16; however, child labor was a serious problem. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. 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, sugar cane fields, 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 tacit approval of sugar companies. Human rights groups reported Haitian 14- and 15-year-olds working in the cane fields. A priest working in the sugar cane producing province of San Pedro de Macoris reported that undocumented Haitian 7- and 9-year-olds also worked planting seeds and were paid \$0.40 (20 pesos) per day. The Ministry of Foreign Affairs estimated that more than 60,000 Haitian children worked in agriculture.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs in the tomato-producing province of Azua, the coffee-growing province of San Jose de Ocoa, the agricultural province of Constanza, and a new program against the commercial sexual exploitation of minors in popular tourist destinations. In September, the Ministry of Labor launched the Time Bound Program, which aims to reduce child labor significantly by 2007. An ILO-Ministry of Labor program in Boca Chica against the commercial sexual exploitation of minors, implemented by an NGO, the Institute for the Family, is to provide psychological support and medical assistance, return children to classrooms, and reunify children with their families and communities whenever possible. The program, which began in October, also provides legal assistance to child victims in order to arrest and convict exploiters.

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 enacts minimum wage legislation. The minimum monthly salary was approximately \$58 (2,877 pesos) in the FTZs and \$78 (3,890 pesos) outside the FTZs. The minimum wage did not provide a decent standard of living for a worker and family. In response to the economic downturn, in September the National Salaries Committee approved a 25 percent increase in minimum wages, which will be implemented in January 2004.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code 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. Approximately 83 percent of sugar cane workers were Haitian or of Haitian descent. However, the Ministry of Labor estimated that sugar cane companies contracted only 3 percent of the Haitians living in the country.

Several construction companies carrying out government contracts solicited cheap labor from illegal migrants. Participacion Ciudadana, an NGO, estimated that 40 percent of construction projects operated without proper permits. Many Haitians reportedly worked 15–20 hours a day on construction projects, and it was not unusual to see them living temporarily in the buildings they were constructing.

To address the problem of undocumented workers, the Directorate of Migration began an outreach program in May to issue temporary work permits, which cost \$23 (1,150 pesos) per migrant, available even when migrants had no proof of legal status. Construction and agricultural associations were contacted to implement the program. As a result, more than 16,000 temporary residence permits were issued to employ Haitians. The permits are valid for 6 months and are renewable by the Directorate of Migration. Several Haitians who had lived in the country for 20 years or more used this permit to maintain a quasi-legal temporary work status, even though it precluded them from obtaining legal permanent residency. According to the Director of Migration, if the employer decides not to renew a contract, the employee is required to report that decision to Migration officials. All Haitians seeking temporary residency must undergo a health screening. If a contagious disease is diagnosed, deportation proceedings begin. The Director of Migration reported that the Department of Health determined that many Haitians were infected with Hepatitis B and HIV/AIDS. The Director of MUDHA stated that, according to an official at Migration, more than 30,000 Haitians were repatriated during the year for the following reasons: Diagnosis of Hepatitis B, HIV/AIDS, or failing to provide evidence of a work permit.

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 \$1.60 (80 pesos) per day and were paid in tickets that were redeemable for cash every 2 weeks. Some cane cutters reported earning as little as \$1.00 (50 pesos) per day. 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 as a "service charge."

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 were paid less, worked longer hours, and had fewer benefits than workers in other industries, according to the Dominican Human Rights Committee. A priest working in the region reported that Haitian workers in his parish worked 14–16 hours per day—a violation of the Labor Code. The Dominican Center for Counsel and Legal Investigations, an NGO, reported that many older Haitians, who had lived in sugarcane shantytowns for 50 years and longer, had not received pensions. Several NGOs asserted that the privatization of the sugar cane industry is the reason the Government does not enforce protection laws for cane cutters' rights.

As a result of meetings with sugar cane company owners to discuss worker rights in the bateyes, in 2001 the San Pedro de Macoris Diocese submitted a proposed model work contract (recognizing ILO standards) to the Vicini Consortium and other companies. The diocese, in cooperation with local NGOs, continued its dialog with the Vicini family to promote Haitian worker rights in the bateyes and to obtain a work contract for Haitian sugar cane cutters.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 175 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors often took bribes from businesses. In practice, workers could not remove themselves from hazardous working situations without losing their jobs.

*f. Trafficking in Persons.*—In August, President Mejia signed into law a comprehensive Law Against Trafficking in Persons and Alien Smuggling; however, trafficking in women and children from, to, and within the country remained a serious problem.

Several laws may be applied to prosecute those who traffic in persons. The new law against trafficking is most comprehensive and includes penalties for traffickers of 15 to 20 years' imprisonment along with a fine of 175 times the minimum wage. The law also includes a provision against alien smuggling, which carries a 10- to 15-year prison sentence and a fine of 150 to 250 times the minimum wage. The revised Code for Minors penalizes sexual abuse of children with 20 to 30 years' imprisonment and fines from \$2,000–\$10,000 (100,000–500,000 pesos).

During the year, the Government created units at the National Police and Attorney General's office targeted against trafficking in persons. The Inter-institutional Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two NGOs, and a religious order, remained

the lead organization with respect to fighting trafficking. The Ministry of Foreign Affairs assumed a more active role by coordinating seminars on implementing the new law for agencies and organizations responsible for combating trafficking. The Foundation for Institutionalism and Justice, an NGO, also began training for prosecutors and judges on how to implement the new law.

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. Not all illegal migrants were trafficked; many traveled willingly for economic motives. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as UNICEF and the IOM were able to provide general numbers through interviews with individuals and extrapolation.

Women 18 to 25 years of age were at the highest risk of being trafficked. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Germany, Greece, Belgium, Curaçao, San Martin, Aruba, Panama, Venezuela, and Argentina. A number of women brought from the Dominican Republic to work in Argentina in the mid- to late-1990s were coerced into prostitution, and an investigation encompassing nearly a dozen such women continued. Within the country there was a serious problem of prostitution of minors, primarily in the tourist areas. Newspaper reports indicated that as many as 30,000 children and adolescents may be involved in the sex industry. The Foreign Ministry reported as a new trend the trafficking of 14- to 16-year-old children to Haiti to work as prostitutes.

The Directorate of Migration estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to COIN and the IOM, trafficking organizations were typically small groups. Usually there was a contact in the destination country and a few persons in the Dominican Republic who recruited the persons to be trafficked and handled obtaining identification and travel documents.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Foreigners overseas marketed tours by suggesting that boys and girls could be found as sex partners. The Inter-Institutional Commission against the Commercial Sexual Exploitation of Children and Adolescents estimated that 65 percent of child sex abusers in tourist areas were foreigners; 35 percent were Dominicans. In nontourist areas, the statistics reversed; 70 percent of sex abusers were Dominicans and 30 percent were foreigners.

The Government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. 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 continued specialized training for Dominican consular officials 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. There were several church-run shelters that provided refuge to children who escaped prostitution.

The Government made efforts to investigate, fire, and prosecute when appropriate public officials that facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. The Director of Migration reported that since 2001, 345 inspectors and supervisors had been fired for trafficking or smuggling activities; 107 individuals were terminated during the year. A former consul in Cap Haitien was indicted on smuggling charges and was put on trial in October (see Section 1.c.). NGOs alleged corruption among the military and migration border officials and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.c.).

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 countries. The Government sought to protect children from being victimized by those who would adopt them by making such adoptions more difficult.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citi-



zenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

During the year, the Ministry of Education trained 3,000 schoolteachers in high-risk areas on preventing child sexual exploitation. In August, the Inter-Institutional Commission launched mass media campaigns warning potential violators of penalties for sexual abuse of children. The campaigns were launched in cooperation with the National Association of Hotels and Resorts, which was expected to train tourism employees about exploitation of minors and post billboards about the law.

## ECUADOR

Ecuador is a constitutional republic with a 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 2002, voters elected Lucio Gutierrez President, and he assumed office on January 15. The judiciary is constitutionally independent but in practice was inefficient and susceptible to outside pressure.

The civilian authorities generally maintained effective control of the security forces; however, the military continued to receive independent 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. Throughout the year, the military supplemented the police, in some cases forming joint street patrols as an anti-crime measure. Some members of the security forces committed serious human rights abuses.

The economy is based on private enterprise, although there continued to be significant government involvement in key sectors such as petroleum, utilities, and aviation. The country's population was estimated at 12.2 million. Following a severe economic crisis, the country adopted the U.S. dollar as its official currency in 2000. The principal exports were oil, bananas, shrimp, and cut flowers, which, together with emigrant remittances and tourism, were 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. The annual real economic growth rate was 3 percent, and inflation was 6 percent. 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.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were credible reports that security forces committed killings using unwarranted lethal force; however, the number of killings by security forces declined significantly. Members of the security forces faced prosecution and prison sentences for some violations. Although there were reports of occasional mob violence, no vigilante killings were reported during the year. Police tortured and otherwise mistreated prisoners and detainees. Prison conditions remained poor. Persons were subject to arbitrary arrest, and prolonged detention was a problem. Once incarcerated, persons without lawyers may wait up to a year before being tried or released. Nearly half of the detainees in jail had not been sentenced formally. The Government prosecuted a few human rights abusers; however, in most cases there was no prosecution or punishment. There was some self-censorship in the media. The police used tear gas and other nonlethal methods to quell demonstrators. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians remained problems. Child labor remained a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, there continued to be credible reports that security forces used excessive force and committed killings. During the year, the Ecumenical Committee for Human Rights (CEDHU) reported 11 killings by security forces using unwarranted force, compared with 23 killings during 2002.

On June 7, 12 members of the military tortured 4 men, killing 1 of them, Julio Cesar Habil. The four men were detained on suspicion that they were involved in the robbery of a soldier's house. Habil's body showed evidence of torture, and he ap-

parently died while submerged in a pool at a military base. The military turned the soldiers over to civilian authorities, and the soldiers were charged with killing Habil and held in prison.

On November 19, police shot and killed eight people in a drugstore in Guayaquil. Police responded to an attempted robbery of the drugstore and claimed they returned fire when robbers shot at them. However, the forensic report stated that the guns collected from the robbers had not been fired and that bullets from police guns had killed the eight victims.

Three persons allegedly disappeared while in police custody (see Section 1.b.). A preliminary internal police investigation stated that the police involved in the incident had not followed proper procedures and used excessive force. Twenty policemen and a former policeman remained in jail pending conclusion of the investigation. Three high-level officers who did not participate in the incident were replaced.

Security forces killed one person during demonstrations (see Section 2.b.).

In January, five policemen were found guilty in the January 2002 killing of David Delgado and Carlos Luna and sentenced to between 2 and 18 years of prison. The policemen appealed their case and, after spending more than a year in prison without a sentence, were released pending a hearing on their appeal.

There were no developments in the case of the January 2002 killing of Damian Pena during a demonstration. Prosecutors investigated the incident, but did not determine who was responsible for his death.

A policeman was charged in the February 2002 killing of Marcelo Zambrano during a demonstration, and the case remained in the court system.

There were no further developments in the case of Luis Pachacama, who according to one witness, was killed by security forces during demonstrations in 2002.

In August, Fausto Bosquez, a policeman who shot and killed Congressman Eduardo Vasconez in March 2002 during an altercation, escaped from custody. His trial had been in process prior to his escape. By the end of the year, there was a police investigation into his escape.

There were no new developments in the case of Rodrigo Ron, who died in prison in June 2002, and whose body showed evidence of a beating.

The case against a policeman for the July 2002 killing of Klever Abad remained in the police court system without a final decision.

There were no new developments in the case of the 2001 killing of Joffre Aroca.

In May, prosecutors filed charges against three military officers in the 2001 death of Lieutenant Julio Robles during a military hazing event. In December, a military court found the three guilty of involuntary homicide and sentenced them to between 6 months and 3 years in prison.

In September, an appeals court upheld the conviction of four policemen for illegal detention in the case of the 2001 killing of Elias Elint Lopez Pita. Lopez's family appealed the decision to the Supreme Court, where the case awaited a decision. In the related case of Luis Alberto Shinin Lazo, a separate court handed down prison sentences to three policemen. One received 16 years for the killing while the others received 8 years as accomplices. Five other defendants in the case fled, and the court did not sentence them. The three convicted policemen appealed their case to the Supreme Court and were released pending the appeal.

There were cases of mob violence against suspected criminals; however, there were no reports of deaths due to lynching (see Section 1.e.). These occurred particularly in indigenous communities and poor neighborhoods of major cities, where there was little police presence. In June, in a town near Quito, more than 100 policemen were summoned to prevent the lynching of 5 suspected criminals. There were no arrests or developments reported in the cases against those involved in lynching deaths in 2002.

There was no update in the case against vigilantes for the 2001 killing of Patterson Manzano. The case remained stalled in the court system.

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

On November 19, three men, Johnny Gomez, Cesar Mata, and Erwin Vivar, disappeared, according to their families, after being detained by police during a drugstore robbery in Guayaquil. Although police denied holding the men, newspaper photographs showed a policeman and a former policeman leading a man away from the scene with his face covered. Prosecutors requested a warrant for the arrest of the three missing men as suspected accomplices in the attempted robbery.

Criminal kidnapping for profit continued to be a problem throughout the country. There were also reports of extortion and threats of kidnapping of ranchers, farmers, and businessmen along the northern border with Colombia. Police registered 34 reported kidnappings during the year; however, there were no reliable estimates of the total number of such extortions or kidnappings—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 accounts of suspects who reported being tortured by specific police officers or members of the military. During the year, CEDHU registered 11 cases of torture involving 24 victims. In most cases, the security forces appeared to have abused such persons during investigations of ordinary street crime or because of a personal grudge. The victims reported that the security forces beat them, submerged them in cold water, applied electric shocks, or threatened them. In some cases the victims' bodies had bruises they claimed were the result of the torture.

There were no new developments in the investigation of four policemen for the torture of five persons in the city of Cuenca in May 2002.

There were no new developments in the 2001 alleged torture case of warehouse clerk Jose Ramires by members of the National Police and the Air Force Combat Command in Guayaquil.

In July, the press reported that a military conscript, Carlos Paredes, had been subjected to military hazing in 2002. Military officers forced him to carry a tire around his neck for several days and then box several other soldiers consecutively. Paredes suffered permanent head injuries. In August, the military reported they had penalized those responsible but did not make the penalties public.

Two groups, the Peoples' Revolutionary Militia and the Popular Combatant Group, claimed responsibility for several small pamphlet bombs during the year in both Quito and Guayaquil, causing minor damage to buildings and injuries to several people. Police arrested a university student for the March 18 pamphlet bombing of the Ministry of Agriculture office in Guayaquil. In December, a judge decided there was insufficient evidence to convict the suspect.

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 in most facilities. According to the National Social Rehabilitation Board (NSRB), during the year there were 13,045 prisoners nationwide in facilities built to hold 6,800. A number of prisons experienced serious outbreaks of disease, and medical care was often inadequate. The daily amount allocated for prison rations was \$0.75 per inmate.

Pretrial detainees were not held separately from convicted prisoners. There were no separate facilities for repeat offenders or dangerous criminals, nor were there effective rehabilitation programs. Women constituted 8 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. Children of female inmates often lived in prison with their mothers. There also were separate facilities for juveniles. Children in these facilities often faced abuse, although the National Police Directorate Specializing in Children served as a monitoring group intended to prevent abuse of children in prisons.

In December, the NSRB reported that 26 prisoners died during the year; however, these figures were preliminary and did not include all prisons. Eight of the deaths resulted from injuries, while the other deaths were attributed to illness or drug overdoses.

In a widely publicized case in April, a gang in prison repeatedly sexually abused a 20-year-old man who was arrested on robbery charges. The man was released and received medical and psychiatric treatment. Prosecutors began an investigation, but there were no further developments in the case at year's end.

During the year, inmates in a number of prisons protested the new detention law, the length of their sentences, and prison conditions. In April and July, inmates at the Litoral prison in Guayaquil, the largest prison in the country, clashed with guards and police and staged hunger strikes. In April, the prison had its water supply reduced by half because the prison owed the water company approximately \$1 million.

In December, prison workers went on strike for 2 days to demand payment of back wages and increased government funding of infrastructure and worker training.

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 observed these prohibitions; however, the authorities often violated these legal protections in practice. Arbitrary arrest and detention remained problems.

The National Police are under the authority of the Ministry of Government. The effectiveness of the National Police was uneven, in part due to insufficient resources

to deal with a high crime rate in many parts of the country. Some municipalities, such as Quito and Guayaquil, have their own metropolitan police forces in addition to the National Police. Some human rights nongovernmental organizations (NGOs) argued that the metropolitan police had no constitutional authority to carry guns or detain suspects. The police have an office that investigates complaints against police officers and can refer cases to the police courts. In October, NGOs claimed that members of the metropolitan police used excessive force and arbitrary detentions in recent years. Police corruption was sometimes a problem. In July, a court sentenced four policemen to 25 years in prison for drug trafficking.

The National Police contracted with NGOs to provide human rights training. In October, Amnesty International (AI) issued a report criticizing the use of the police court system in cases involving possible human rights violations by police. AI argued that the design of the police court system and the appointment of active and retired police officials as judges prevented the courts from acting impartially and independently and resulted in impunity for police officers who commit human rights violations.

The law requires authorities to issue specific written arrest orders within 24 hours of detention, and 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 provision, or who do not have the funds to hire a lawyer, may remain in prison for an extended period 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). Indigenous leader Humberto Cholango was briefly, but arbitrarily, arrested in December for his public criticisms of President Gutierrez (see Section 2.a.).

Although the law prohibits incommunicado detention, human rights organizations continued to report occasional violations. Even when police obtained 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 Criminal Procedures Code limits immediate detention to 48 hours for suspicion of committing a crime and establishes investigative detention of 6 months for minor offenses and 12 months for major offenses. However, in January, Congress passed a law that allows prisoners to be held for an indefinite period after their trial has begun, but before they have been sentenced.

The Constitution prohibits forced exile, and the Government did 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.

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, as well as criminal, provincial, and cantonal (county) courts. The Supreme Court supervised the selection by open competition of all appellate judges.

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 did not always announce verdicts or punishments, reinforcing the strong impression that police were immune from prosecution. The Constitution places both police and military justice under the regular judicial system. However, the three systems have not yet been integrated, although weak efforts to do so continued.

Despite continuing efforts to depoliticize and modernize the court system, the judiciary continued to operate slowly and inconsistently. There were lengthy delays before most cases came to trial. Judges reportedly rendered decisions more quickly or more slowly as a result of political pressure, or in some cases, the payment of bribes. In June and again in December, the President of the Supreme Court publicly de-

nounced political pressure on the court and threats against himself. In July, the Government began a corruption investigation of Supreme Court Justice Olmedo Bermeo, who had allegedly acquired more than \$1 million worth of property since being appointed to the court. In October, prosecutors initiated investigations into allegations that two other Supreme Court justices had not properly declared all of their assets.

There are more than 55,000 laws and regulations 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 contributed to what widely was referred to as "juridical uncertainty."

The failures of the justice system contributed to cases in which communities took the law into their own hands, such as mob violence against suspected criminals (see Section 1.a.).

The law provides 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 were only 32 attorneys available to defend the large number of impoverished suspects.

Investigation of crimes is supposed to begin within 90 days of the initial arrest of a suspect. The investigation phase can take up to 2 years before the initiation of a trial. The majority of the accused were in prison while the investigation phase took place. 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 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. Prosecutors have wide discretion in deciding which cases can proceed. The National Police continued to work as investigators under the direction of the judicial police. There were no juries in the justice system. The new code was 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 January, the Government created an organizing committee headed by the President of the Supreme Court to coordinate implementation of the abrupt change in roles, functioning, and procedures for the criminal justice system. This committee met regularly and continued to develop a national plan to improve the implementation of the reform measures. The supplies and training available remained inadequate to meet the newly expanded role of the prosecutor's office.

The 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 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, there is no specific procedural guidance for obtaining such approval. Therefore, when members of the police did conduct wiretapping in the course of criminal investigations, it was not officially sanctioned.

*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, there were some significant exceptions. There were criminal charges of slander and libel brought by public figures against journalists and other public figures. The law criminalizes slander and libel, and defendants who are found guilty could serve jail sentences for their public comments.

Individuals generally criticized the Government publicly and privately without fear of reprisal. The most notable exception during the year was the December arrest and detention of indigenous leader Humberto Cholango for his public criticism of President Gutierrez. Cholango was released after less than 24 hours. His arrest was widely criticized by human rights groups and in numerous editorials. The government official who reportedly ordered his arrest was later forced to resign.

There was a free and vigorous press. Ownership of the media was 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. 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—were 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 required television and radio to broadcast programs produced by the Government featuring the President and other top administration officials.

In August, President Gutierrez went to the Supreme Court, accompanied by cabinet members and military and police commanders, to file slander charges against Guillermo Haro, a member of Congress who had accused the President and members of the military of corruption. Traditionally, the speech and activities of members of Congress have been protected by parliamentary immunity. However, at year's end, President Gutierrez's political party and the Armed Forces attempted to build support in Congress for a vote to lift Haro's immunity.

In September, a judge ruled that a newspaper columnist, Rodrigo Fierro, had slandered former president Leon Febres Cordero in a column published in one of the country's largest newspapers. The judge sentenced Fierro to 6 months in prison, and Fierro's lawyer appealed the decision. The judge's decision led to domestic and international criticism. In December, an appeals court reduced the sentence to 1 month in prison and a \$6 fine. Fierro's lawyer again appealed the decision, and the case remained unresolved at the end of the year.

Also in September, the Supreme Court sentenced Ricardo Noboa, former head of the National Modernization Council, to 3 months in prison for slandering a politician in 2002.

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 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 violent demonstrations, resulting in one death and several injuries (see Section 1.a.). Public rallies require prior government permits, which generally were granted, although exceptions occurred.

On January 6, demonstrators in an area outside of Quito protested the location of a trash dump. Security forces killed Jose Tonguino during a confrontation with the demonstrators. No member of the security forces was charged with the killing.

Numerous labor, indigenous, 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 did not require religious groups to be licensed or registered unless they engaged in commercial activity.

The majority of the population considered 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 were permitted to teach religion, as are parents in the home. There were no restrictions on publishing religious materials in any language.

For a more detailed discussion, see the 2003 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 permission to leave when traveling abroad, which was granted routinely. Military and minor applicants must comply with special requirements.

The law provides for granting refugee and asylum status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

During the year, the Foreign Ministry reported that there were 11,463 applications for refugee status. By year's end, the authorities denied 4,392 applications, granted 3,270, and had yet to process the remainder. During the year, 99 percent of the refugee 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.

*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 October 2002, a new Congress was elected, and, in November 2002, voters selected Lucio Gutierrez in the second-round presidential election. Election observers from the Organization of American States, the European Union, the NGO Citizen Participation, and other international groups termed the elections peaceful, free, and fair. On January 15, President Gutierrez assumed office, 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 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, it must be eliminated from the electoral registry. In July, the Electoral Court eliminated 9 of 21 registered political parties. Six of those parties failed to win the minimum 5 percent of votes. The other 3 parties failed to field candidates in a minimum of 10 provinces.

In August, former president Gustavo Noboa voluntarily fled the country and obtained asylum in the Dominican Republic. A prosecutor filed charges against Noboa related to his renegotiation of debt while president. Government auditors cleared Noboa of wrongdoing, leading some observers to believe that the prosecutor's actions were politically motivated and instigated by Noboa's opponents. The charges were still pending at year's end.

No specific laws prevented women or minorities from attaining leadership positions in government. However, few women, indigenous persons, or Afro-Ecuadorians occupied senior positions in government. A 1998 law required that at least 30 percent of the candidates for Congress and some local positions in 2000 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. During the 2002 elections, the method used to calculate the percentage of women candidates created some controversy, but the election lists appeared generally to follow the law. Women held 17 of 100 seats in Congress, the largest proportion in the country's history. President Gutierrez initially named four female cabinet ministers, including the first female Minister of Foreign Affairs. At year's end, there were two female cabinet ministers, following turnover in the cabinet.

The indigenous movement formed the Pachakutik electoral movement and has run candidates for national, provincial, and local office in all elections. In the 2002 elections, Pachakutik formed an alliance with President Gutierrez and participated as a partner in his government until ending the alliance in August. Pachakutik had 10 members in Congress and was associated closely with the politically active Confederation of Ecuadorian Indian Nationalities (CONAIE). Indigenous leader Humberto Cholango was arrested and detained for less than 24 hours in December for public criticism of President Gutierrez (see Section 2.a.). Indigenous members of the National Constituent Assembly and their supporters won important constitu-

tional protections for indigenous rights in the 1998 Constitution. The Cabinet initially included two indigenous cabinet members—the ministers of foreign affairs and agriculture; however, both ministers resigned when Pachakutik’s alliance with the Government ended.

*Section 4. Governmental Attitudes 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.

In the case of the three human rights groups’ offices that were broken into in 2002, police investigations appeared to be superficial, and no arrests were made.

The office of the Ombudsman (“Defensor del Pueblo”) was created in 1998 to ensure attention to human rights problems; however, some observers criticized its lack of independence in practice. Claudio Mueckay continued as acting Ombudsman.

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 Ombudsmen’s office and a number of NGOs, contributed to development of this plan, and the U.N. contributed funds to support it. In 2002, the Government released its “Human Rights Operative Plan” that described possible mechanisms for implementing the National Human Rights Plan. The Gutierrez Government continued to implement various aspects of the National Human Rights Plan, including training of the Congress on human rights matters, seminars, publication of documents, and a contingency plan for refugees. Several prominent human rights NGOs publicly criticized the Government’s lack of progress in implementing the plan.

Congress has a seven-member human rights committee. The committee met infrequently, and local human rights organizations did not consider the committee’s role particularly significant.

*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 criminalizes spousal abuse, including physical, sexual, and psychological abuse; creates family courts; and reforms the Penal Code to give courts the power to remove an abusive spouse from the home. The law also provides 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 28,131 cases of sexual, psychological, or physical mistreatment of women in 2002, although the numbers were not complete for all provinces. 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 had 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.

Women’s rights organizations described sexual harassment in the workplace as common. However, cases of sexual harassment did not appear in the press during the year.

Adult prostitution is legal so long as the businesses are registered with the Government and follow health regulations.



Discrimination against women was 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 provided 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,” defined as 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 one out of six citizens between the ages of 13 and 20 had not completed the sixth grade. Education was 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 that provided families with educational subsidies as an incentive to keep children in school, which assisted approximately 50,000 children. In rural areas, many children attended school only sporadically after 10 years of age because they needed to contribute to household income, primarily as farm laborers (see Section 6.d.).

There was no societal pattern of abuse against children.

Government resources to assist children traditionally have been limited. According to a study by the Government's Integrated System of Social Indicators in 2000, approximately 30 percent of children under the age of 5 were malnourished. In September, the Government unified its various nutrition programs in an attempt to better focus assistance on the poorest children. Government spending on education declined during the economic crisis of 1999–2000, but then increased in subsequent years.

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 2001, Congress passed legislation to promote the rights of persons with disabilities, including access to education, employment, transportation, and communication. However, the Government had few resources to ensure access to these services in practice.

*Indigenous People.*—While at least 85 percent of all citizens claimed some indigenous heritage, estimates of those who maintained their indigenous cultural identity and lived in indigenous communities varied between 7 and 20 percent of the total population. The vast majority of indigenous citizens resided in rural areas, including the highlands and the Amazonian provinces, and most lived in varying degrees of poverty. A 2000 government study found that 79 percent of indigenous children lived under the poverty line. Land was 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 region, indigenous groups lobbied the Government, enlisted the help of foreign and domestic NGOs, and mounted protests, including kidnapping oil workers in past years, in attempts to win a share of oil revenues and a voice in natural resource and development decisions. The Government tended to consult indigenous

communities on natural resource 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.

The Ombudsman's office established ombudsman representatives in indigenous communities throughout the country. In August, these representatives were officially registered and assumed responsibility for promoting human and indigenous rights among indigenous communities, and providing specific advisory services to these groups.

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. Indigenous leader Humberto Cholango was briefly but arbitrarily arrested in December for his public criticism of President Gutierrez (see Section 2.a.).

*National/Racial/Ethnic Minorities.*—The population of the rural, northern coastal area included 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 1 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 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. Approximately 5 percent of the workforce was organized. The Labor Code explicitly prohibits employers from interfering in the establishment or functioning of worker organizations. The code also explicitly prohibits employers from dismissing workers while they are forming a union or negotiating a collective contract; however, the penalties for violations were relatively minor and not enforced in practice. Members of the police, the military, and most public sector employees are not free to form trade unions.

The 1991 Labor Code reforms set the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's (ILO) Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. In 2002, the ILO again criticized the 30-worker minimum and called for the Government to take the necessary measures to amend the code. In its 2002 Annual Survey of Violations of Trade Union Rights, the International Confederation of Free Trade Unions 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.

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 were 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 worker rights allowed employers to violate workers' rights with impunity.

While employees of state-owned organizations enjoyed rights similar to those in the private sector, the law 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.

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.

Under the law, unions may join federations or confederations, and three of the large labor centrals maintained international affiliations.

*b. The Right to Organize and Bargain Collectively.*—The labor market was highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium-to-large industries. 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 and the Union of Social Security Workers, were allied with the Democratic Political Movement, a far-left party. There were five large labor confederations or centrals; no central was connected firmly to any one political party. President Gutierrez appointed the former president of the largest labor confederation as an official presidential advisor.

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; however, collective bargaining agreements covered only one-quarter of the work force that was organized. A 2000 labor law allows businesses to hire workers on “individual contracts.”

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 anti-union 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” was 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 level of 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 Labor Code prohibits an employer from contracting substitute workers during a strike, although in practice this law was not enforced. The law does not explicitly prohibit the hiring of strikebreakers by subcontractors or other third parties that are not legally the striking workers’ employer. 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. In September, Congress passed a civil service reform law that creates a unified salary structure for some public workers (it excludes the police, military, teachers, and healthcare workers). The law reiterates the prohibition against strikes by most civil service employees.

In June, employees of the public petroleum company went on strike for 8 days. The strike was illegal, and the Government ordered striking employees back to work and fired several union leaders. The union leaders claimed the process of their firing was illegal and filed suit to regain their jobs. The Government claimed the firings were legal, because the union leaders had led an illegal strike and had been absent from work for more than 3 days without approval. The employees' legal suit had not been decided by the end of the year.

An appeals court dismissed the prosecution of those who allegedly committed violence against workers at the Los Alamos banana plantation in May 2002. In June, approximately 70 unionized workers at the Los Alamos plantation requested negotiation of a collective contract and were fired by the three subcontracting companies that employed them. The Government requested that the companies rehire the workers, but the companies refused. The workers settled with the companies for severance pay.

Public school teachers went on strike four times during the year, including for 5 weeks in May and June and 6 weeks in November and December. Teachers returned to work in June after the Government agreed to pay salary increases. A government commission later postponed the salary increase, and the teachers went on strike again in November. At the end of December, the teachers accepted the Government's new offer. In July, August, October, and December, public health workers, including doctors and nurses, went on strike to demand higher wages. At the end of the year, the labor dispute remained unresolved.

The 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; however, there were reports that children were trafficked for labor (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In July, a new law went into force that includes a section on child labor; however, child labor remained a problem. The new law raises the minimum working age for minors from 14 to 15 for all types of labor and reduces the maximum hours a minor may work to 6 hours per day and 5 days per 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, business, and labor organizations. The Committee formulated a national plan for 2003 to 2006. In practice, the Ministry of Labor and the Minors' Tribunals failed to enforce child labor laws, and child labor was prevalent. However, in August, the Ministry of Labor, working with UNICEF, began a program of systematic child labor inspections of banana and flower plantations. Urban child labor 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 more than 130,000 children aged 14 years 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 left school at an early age to assist on the family's plot of land. More than 40 percent of all children lived in rural areas, and many did unpaid agricultural work for their families.

A report commissioned by the ILO estimated that there were 5,200 minors engaged in prostitution (see Section 6.f.).

The Ministry of Labor designated a "Social Service Directorate" to monitor and control child labor in formal sector businesses such as factories; however, enforcement in most sectors of the economy remained limited. In urban areas, many children under 15 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 services, and beg-

ging. Children as young as 5 or 6 years often sold newspapers or candy on the street to support themselves or to augment family income.

The Government, through the National Children's and Family Institute (INNFA), spends approximately \$3.5 million per year on the Program for the Schooling and Protection of Child Workers. The Ministry of Social Welfare provided a "school bonus" of \$6 per month to poor families for school entry fees, books, supplies, and other school costs. The program covered approximately 50,000 students in 2002. The Central Bank ran the Child Worker Program with funds of approximately \$255,000 per year, supplemented by private funds.

*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 the minimum wage. As of September, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$157, or \$0.85 per hour in the case of contract workers. The statutory minimum wage was 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.

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. A 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.*—The Constitution prohibits slavery and trafficking in persons in all forms; however, there are no anti-trafficking penal laws that support the constitutional prohibition, and there were reports that citizens were trafficked out of the country. A misdemeanor law addresses alien smuggling. While this and other laws could be used to prosecute traffickers, they have yet to be applied.

A report commissioned by the ILO estimated that there were 5,200 minors engaged in prostitution. The Government did not have adequate programs to address this problem.

The law prohibits alien smuggling, including creating or selling fraudulent documents. 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 up to 12 years if a death occurs. The law specifically exempts smuggling victims from prosecution. Other laws dealing with kidnapping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. The immigration police, a division of the National Police, are charged with combating alien smuggling. At year's end, no case had yet reached a verdict under these laws.

There was no reliable estimate of the extent of the trafficking problem in the country. Two specific cases were reported during the year. In March, three indigenous minors were reportedly returned to the country after having worked in Colombia as domestic servants. In March, Spanish authorities arrested six Ecuadorians for allegedly mistreating five Ecuadorian minors and requiring them to work long hours making craft items. In past years, 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. There were no specific government programs aimed at assisting trafficking victims.

Since the beginning of its economic crisis in 1999, the country has had a high rate of emigration: Between January 2000 and April, the country registered a net emigration of approximately 500,000 persons. Citizens emigrated 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.

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## EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president, a unicameral legislature, and an independent judiciary. In 1999, voters elected President Francisco Flores of the Nationalist Republican Alliance (ARENA) to a 5-year term. In free and fair elections in March, the Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA negotiated with the conservative National Conciliation Party (PCN) to maintain a working majority. Two other political parties also hold seats in the Assembly. The judiciary is constitutionally independent; however, many judges were still susceptible to political influence.

The National Civilian Police (PNC) maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities, including anti-narcotics efforts and reform-school training for juvenile convicts. Civilian authorities maintained effective control of the security forces. Some members of the police committed human rights abuses.

The free-market, mixed economy is based largely on services, agriculture, and manufacturing. The country's population was over 6.5 million. Although agriculture accounts for only 8.7 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 20 percent of the country's total work force (which is estimated at over 2.5 million persons). Coffee and sugar are the principal export crops, and were formerly 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, as of the 2003-04 coffee season, the decline in coffee prices since the 1999-2000 harvest has reduced employment by approximately 135,790 jobs. The manufacturing sector, which contributes 24 percent of GDP, employs 18 percent of the work force. The textile sector, particularly the maquila (in-bond assembly or processing) plants in free trade zones (EPZs), represents about 20 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 reached 2 percent during the year, with inflation at 2.5 percent. The official unemployment rate averaged 6.3 percent for the year; however, the rate of underemployment (less than full-time work, or total income below the minimum wage) was estimated at about 36.6 percent. In January and February of 2001, 2 earthquakes killed over 1,100 persons, left more than 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 year approximately 36.1 percent of the population lived below the poverty level, compared to 38.8 percent in 2002. In 2001, the dollar became an official currency.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. Some alleged politically motivated killings were under investigation at year's end. There were no reports of politically motivated disappearances. Some police officers used excessive force and mistreated detainees; at times police arbitrarily arrested and detained persons without adequate cause. Prison conditions remained poor, and overcrowding was a continuing problem. Lengthy pretrial detention remained a problem. The judiciary remained generally inefficient and hampered by corruption, although the Supreme Court and the Attorney General's office took some steps during the year to address inefficiency and corruption in the judiciary. The Court dismissed 39 judges who had not fulfilled the requirements for their degrees. Some of the dismissed judges alleged that some of their colleagues had retained their positions in the judicial branch due to their political, economic, and other ties. 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 adequately protect workers rights to organize and bargain collectively. Trafficking in women and children was a problem.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were some reports of political killings by agents of political parties. The PNC Inspector General's office (IG) received allegations of police involvement in 57 killings, compared to 12 allegations of involvement in homicides during 2002. At year's end, authorities were adjudicating whether police officers had acted criminally or in the line of duty. During the year, the Ombudsman for Human Rights (PDDH) found that PNC agents were responsible for 1 unlawful killing, 1 attempted murder and 17 cases of physical abuse.

In January, Alvaro Centeno Calvio, a member of the FMLN, died in Ahuachapan during the legislative and municipal election campaign. According to an FMLN Deputy, Centeno Calvio died after having been hit in the head with a rock during a confrontation between the FMLN and ARENA, the governing party. According to the Forensic Institute, Centeno died of multiple injuries. In February, police arrested Francisco Zarcen Rodriguez, Jose Ernesto Martinez Rios, and Jose Guillermo Solito Escobar, all of whom were members of gangs. The police and the AG contended that 15 or 20 gang members unaffiliated with ARENA killed Centeno. The Court acquitted Francisco Zarceno because the facial injury he inflicted on Centeno was not the cause of death. The Court sentenced nine persons, including Jose Ernesto Rios and Jose Guillermo Solito Escobar.

There was no information available from government sources regarding the trial of persons for the September 2002 shooting death of Darwin Lopez.

In July 2002, an unidentified assailant shot and killed Nelson Alfonso Argueta Amaya, president of the National Federation of Demobilized Members of the Civil War Era Militia. The prosecutor initially identified several possible motives for the crime, including a personal dispute over the victim's leadership of the organization. Despite press speculation, there was no evidence of a political motive. The investigation continued at year's end.

The PDDH received 16 complaints of attempted and/or completed unlawful killings by police during the year.

In August, the Criminal Chamber of the Supreme Court announced it was reviewing the March 2002 conviction for second-degree murder and sentencing of Air Force flight school cadet Carlos Mauricio Melara to 10 years and 8 months in prison for the 2001 beating and killing of fellow cadet Erick Mauricio Pena Carmona to establish if the crime was first- or second-degree murder. In November, the Criminal Chamber directed that a criminal court should try Carlos Mauricio Melara and Cesar Humberto Dorat, previously exonerated by the courts, for first-degree murder.

A total of 28 inmates died in prison due to violence or illness during the year, compared to 19 inmates in 2002.

The trial of police captain Mariano Rodriguez Zepeda for the 1998 shooting of Jose Antonio Navidad Villalta was rescheduled for July 2004.

In January, the Supreme Court refused to grant a writ (amparo) to attorneys who presented a complaint for illegal delay of justice on behalf of six Jesuit priests, a housekeeper, and her daughter, who were murdered in 1989. The attorneys alleged that the Court's decision was contrary to the jurisprudence of the Constitutional Court, and in November, they presented the case to the Inter-American Human Rights Commission.

*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, 8 persons were kidnapped during the year, compared with 19 kidnappings in 2002 and 49 in 2001.

At year's end, the Supreme Court had not agreed to review the ruling regarding the August 2002 acquittal by a PNC disciplinary tribunal of PNC sergeant Tomasa Reyes Alvarado. According to the Court, the petitioners had not presented the request for review as legally required; the appeals court verdict of acquittal was upheld. In addition to Reyes Alvarado, former PNC sergeant Jose Azcunaga Segura and a civilian had been charged for the 2000 kidnapping of a couple in Sonsonate.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) investigated 150 cases (out of 450) of disappeared children and located 13 children living in El Salvador, the United States, France, and Italy, whom they helped reunite with their biological parents. In July, Pro-Busqueda met with the Family Committee of the Legislative Assembly and re-introduced a bill for the creation of a national commission to look into the cases of children who disappeared during the civil war 1980–92. At that meeting, the Public Defender committed to study the constitutionality of the bill, and in August, presented a favorable opinion. Additionally, the Family Committee of the Legislative Assembly

ordered its legal department to present an opinion. At the end of the year, the legal department had not done so.

In July, Pro-Busqueda presented the case of sisters Ernestina and Erlinda Serrano Cruz, who disappeared in 1982 during an armed forces operation known as "La Guinda de Mayo," to the Inter-American Court of Human Rights.

In October, Amnesty International accused the Government of not assuming its responsibilities under the Peace Accords to investigate the cases of children who disappeared during the war and whose whereabouts remained unknown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices. During the year, the PDDH received one complaint alleging torture by a police officer. There were allegations that some members of the PNC used excessive force or otherwise mistreated detainees.

In October, the PDDH reported that a minor was tortured in a PNC station in Apopa. According to the PDDH, the PNC agents tortured the minor in retaliation for his having previously accused the police of beating him during arrest. According to the IG, there was insufficient evidence to consider the case as torture; it was instead classified as an irregular law enforcement procedure.

In October 2002, the police detained a local PNC deputy inspector, Abel Hernandez Cortez, on charges of committing torture and serious injury to Jose Antonio Dominguez. In March, the PNC IG reported that it had closed the case after a criminal court exonerated Abel Hernandez Cortez in February. The Court based its decision on lack of evidence.

At year's end, the PNC IG had closed a case against PNC officers accused of detaining and beating seven members of the Salvadoran Association of Municipal Workers, who were illegally blocking traffic in support of a strike in November 2002. The IG ruled that riot police had used only necessary force against the protesters.

In December, the IG exonerated two PNC officers in the non-lethal shooting of Domingo Yanez Villatoro. The IG determined that the PNC officers had acted according to regular police procedures in response to being threatened with firearms.

During the year, the PDDH received a total of 863 complaints against the PNC for all categories of human rights violations, compared with 1,095 in 2002. Of the 2,479 total complaints received, 778 were for violation of the right of personal integrity committed by government authorities during the year and in prior years, compared with 766 in 2002. 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.

A special board continued to review appeals by former PNC employees who were dismissed under expedited procedures authorized by the Legislative Assembly in 2000 (Decree 101).

By year's end, a prominent women's rights organization that had asserted in 2001 that sexual harassment was a widespread problem within the PNC and that female officers were subject to violence, had trained 150 police agents regarding women's rights.

Human rights awareness is a standard component of police officers' basic training program.

Prison conditions remained poor. The prison system has the capacity to hold 7,312 prisoners in 21 penal facilities. Overcrowding in individual facilities continued as the prison population increased for the fourth consecutive year. At year's end, 10,822 prisoners were held in 18 prison facilities with a combined capacity of 7,050, and there were 27 men and 6 women in 2 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often were sent to regular prisons, where they may be placed together with violent criminals. At year's end, 6,606 out of 11,451 detainees had been sentenced. During the year, the prison authorities instituted a new system for rewarding with weekend ambulatory privileges, for example, prisoners who exhibited good behavior and fulfilled all legal requirements. On the other hand, those prisoners who displayed dangerous or violent behavior were restricted to maximum security. In August, the authorities inaugurated a maximum-security prison with a capacity of 400. At year's end, the prison held 210 inmates.

Gangs continued to exercise influence within the prisons and judicial system, and prisoners reportedly continued to run criminal activities from their cells. Prison authorities reported that there were 28 deaths in the prison system during the year. Legislative Assembly Advisors reported that the FMLN used gangs for political purposes, such as painting walls for the presidential elections, during the year.

In March, the Attorney General (AG) dismissed charges against the Director of the PNC and the Director of Prisons for the deaths of two PNC officers and one prisoner during a December 2002 riot at a major metropolitan prison.



There are 3 separate women's penal facilities with a capacity for 262 persons. At the end of year, there were 578 women in the female prisons, with 51 additional women incarcerated in primarily male facilities, compared to 562 and 87 in 2002, respectively. Conditions in the women's facilities were 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 observed this requirement in practice; however, from June 2001 through April 2002, the PDDH found nine juveniles in pretrial detention facilities that also housed adults. At year's end, 125 minors were housed in a juvenile prison under the supervision of the Salvadoran Institute for the Full Development of Children and Adolescents (ISNA). Gang violence in juvenile holding facilities was a problem. 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 permitted prison visits by independent human rights observers, nongovernmental organizations (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.

The PNC maintains public security; the Ministry of Defense is responsible for national security. The military provides support for some PNC patrols in rural areas and also provides support to the law enforcement agencies for specific activities, including anti-narcotics efforts and reform-school training for juvenile convicts.

In June, authorities arrested 27 PNC Officers on alien smuggling charges; the officers had connections with airport personnel who facilitated the smuggling. In July, an initial hearing judge released the officers. Only 6 of the 27 officers could be apprehended when an appeals court revoked the decision; the remainder had fled. At an initial hearing in December, a judge initiated criminal proceedings against the six officers in custody.

At the request of a judge, police conducted a disciplinary investigation into the April 2002 arrest and detention for 30 days of Esteban Ortiz Vasquez under an arrest warrant for similarly named Esteban Benito Ortiz. The judge found that the police had used flawed procedures.

From 2001 to November, the Supreme Court of Justice had received a total of 142 complaints from former PNC employees who alleged they were illegally dismissed. As of November, the Supreme Court had issued 17 favorable sentences, dropped charges in 23 cases, and considered 5 cases unacceptable. The remaining sentences were not admitted due to lack of formal petitions.

During the year, the PDDH received 778 complaints alleging violations of personal liberty, compared with 205 complaints in 2002. The courts generally enforced a ruling that interrogation without the presence of counsel is coercion, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender or an attorney 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 were sent to regular prisons, where they could be placed together with violent criminals (see Section 1.c.). The law permits a judge to take up to 6 months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor or either party may ask the appeals court to extend the deadline for 3 to 6 months, depending on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. The Penitentiary Directorate reported that 4,514 inmates were in pretrial detention at the end of 2003 (see Section 1.c.). According to the Supreme Court, during the year the judicial system received an average of 19 criminal cases per day, compared to an average of 111 per day in 2002.

The Penal 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 observed 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 suffered from inefficiency and corruption. During the year, the Supreme Court (SCJ) took some 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.

In February, the CNJ President reported that the selection of more than 300 judges by the SCJ was illegal because they were not on the list of nominees proposed by the CNJ. The SCJ countered that the selections were legal because they involved transfers and exchanges of (mostly alternate) judges. The CNJ presented a petition before the Legislative Assembly to establish that every judge must be selected from a CNJ list of nominees; however, the legislature did not pass the petition, and the Supreme Court of Justice ruled it unconstitutional. The CNJ and SCJ then announced that the CNJ would take primary responsibility for the administration of judicial careers, although the SCJ will name judges and determine their courts of appointment. The National Judicial Council evaluates all judges twice a year; during the year, the evaluations took place in June and September. According to the CNJ President, the evaluation tools had been improved.

The President of the CNJ lobbied the Supreme Court to accept the recent graduates of a special judicial program in which attorneys receive 2 years of practical and academic training (including ethics) to eventually become judges. Sixteen out of 34 graduates of this program were working as judges at year's end.

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. 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 particular phases 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 involving homicide, kidnapping, fraud, environment, drugs, or private property issues 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 tribunal decides the sentence. A jury verdict cannot be appealed. However, the defendant may appeal a sentence to the Supreme Court for reduction if certain requirements are fulfilled. 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.

During the year, the Supreme Court of Justice, acting as the maximum tribunal, held 69 sessions, compared with 64 sessions in 2002. It issued 133 decisions, resolved 345 conflicts of competency, 5 cassations, and 158 petitions coming from foreign courts.

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. In October, the Legislative Assembly approved a temporary anti-gang law, against which several parties presented constitutional petitions before the Supreme Court, including the PDDH. This law establishes that a child aged 12 to 18 can be tried as an adult and receive adult sentences of up to 30 years of prison. At year's end, few judges had applied the new law, and none had enforced the sentencing provision.

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. In practice, compensation for damages due to judicial error was seldom applied. 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, particularly for persons who were politically, economically, or institutionally well connected. According to the U.N. Secretary General's December 2002 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. In 2003, the attorney investigation unit of the Supreme Court received 329 claims against private lawyers. The SCJ disbarred attorneys in three cases for periods not exceeding 5 years. There were few, if any, reports of corruption in the Attorney General's office during the year.

In June, authorities arrested National Judicial Branch Security Chief Carlos Adolfo Flores Hernandez, Regional Security Chief Ramael Armando Chorro Enrique, Security Supervisor Gerbert Heriberto Munoz Chicas, and Judicial Protection Agent Fredy Alvarado on charges of facilitating the escape of 14 members of an organized crime group named Banda Tacoma, which operated in Guatemala, Belize, and El Salvador, perpetrating homicides, kidnappings, bank robberies, and other crimes. At year's end, a criminal judge had opened a trial process against Fredy Alvarado, Gerbert Heriberto Munoz Chicas, and Ramael Armando Chorro Henriquez, all of whom were under house arrest. The criminal judge had dropped charges against Carlos Adolfo Flores Hernandez.

The CSJ has not acted on an October 2002 request by the AG to lift the immunity of two of the three judges whom he intended to prosecute.

In November, the AG formally charged Judge Ricardo Canales Herrera with misappropriation, through negligence, of approximately \$20,000 and 500 grams of heroin. Before the AG presented formal charges, Canales Herrera stated that he would present an interpellation petition against the AG because of the delay in presentation of charges. In 2002, 13 out of 15 Supreme Court Justices voted to dismiss Canales Herrera because of the loss of the drug in the court warehouse for which Canales had responsibility. Canales then presented a petition before the Administrative Dispute Chamber of the Supreme Court of Justice, charging that his dismissal was illegal. At year's end, the Administrative Dispute Chamber had not issued a decision.

In late September, an initial hearing was held in Ahuachapan for Narciso Ramirez, charged with alien smuggling. The initial hearing magistrate ruled that the case involved organized crime elements and therefore, according to Salvadoran Law, should be heard by a tribunal composed of three judges (one of whom would be the initial hearing judge). However, the two other magistrates on the tribunal ruled that the case did not involve organized crime and should instead be tried as a common case by jury trial. The initial hearing magistrate later recused himself from the case. In October, the tribunal transmitted the case to the Criminal Chamber of the Supreme Court of Justice due to the conflict between the three judges. As of the end of year, the Criminal Chamber had not issued a decision.

In April, the University of Central America Institute for Human Rights (IDHUCA) presented a petition to the AG to investigate all relatives—including a PNC officer—who were present during the rape and murder of Kattia Miranda on April 4, 1999. The AG designated two of its most elite prosecutors for the investigation, but by the end of the year there were no new developments in the case.

During 2002, 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. By the end of 2002, 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. The decree that authorized this procedure expired in February 2002. The Attorney General did not dismiss any prosecutors for corruption during the year.

At the end of the year, the Supreme Court of Justice was studying 140 cases of irregular diplomas. The Supreme Court drafted a decision in 50 cases out of 140. However, a final decision needs evaluation by the entire body of 15 Justices. The Attorney General must present formal requests in 90 cases to continue the legal process.

In August, the CSJ disbarred 39 attorneys upon formal notification by the Ministry of Education that they had not completed requirements for their degrees. In September and October 2002, the Supreme Court dismissed 38 judges on similar grounds after which a group of the dismissed judges released a list of judges whom they alleged did not meet requirements but retained positions because of political

or economical influence or because of their relationships with the Justices of the Supreme Court. The dismissed judges appealed to the Inter-American Commission on Human Rights and the PDDH. In May, the PDDH asserted that the Supreme Court had violated due process and the principle of equality before the law in dismissing the judges and found that the Court should have used a regular process rather than a brief process in dismissing the judges. All but one of the judges dismissed by the Court 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.

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.

In December, a San Salvadoran judge granted a sentence reduction and released a well-known organized crime figure, Bruno Ventura. The judge released Ventura, based on a joint decision of the Ministry of Governance and the Supreme Court of Justice. The Ministry of Governance previously had ruled against Ventura's release. The judge who issued the release order was accused of granting unusual privileges to Ventura in the past, but she asserted that she had acted within the law. According to the Salvadoran Press Association (APES), Ventura's mother injured a journalist covering the Ministry of Governance's initial ruling against Ventura's release.

Police, prosecutors, public defenders, and the courts continued to have problems in crime investigation. 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 2002, 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.

In August, a criminal court exonerated Colombians Rynel Ardila Vasquez, Julio Lele Farfulla Caise, and Miller Suarez Salas, accused of trafficking 1,920 kilograms of cocaine. In September, an appeals court revoked the decision, and on October 2, the judge opened criminal proceedings before a sentencing tribunal, in accordance with the law. The suspects remained in custody at year's end.

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.

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. With a judge's order, samples of blood and other bodily fluids can be taken without the consent of the accused.

*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. However, according to APES, the Government asked the Mexican Government to intervene with a local subsidiary station of a Mexican company to stop political reporting that posed an embarrassment to the Government. 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. In January, two political parties (the CDU and PCN) presented a petition before the Legislative Assembly to remove the exemption that newspapers have from paying taxes. This initiative was not supported by the two largest political parties (ARENA and the FMLN) and failed. In February, CINTEC Environment Inc., a waste-treatment enterprise, announced it would file a suit

against two major newspapers that had reported that CINTEC might be laundering money in cooperation with organized crime. An NGO expressed its concern to the PDDH regarding the potential chilling effect on free press of the lawsuits, in view of the judicial system's past unresponsiveness to freedom of press issues and less-than-desirable respect for social communicators, media, and informers.

On April 8, Derechos Humanos para las Américas, a domestic NGO, and APES presented a bill before the Legislative Assembly to strengthen freedom of speech in accordance with international law. Although all political parties supported the proposal, time limitations prior to the seating of the newly elected Legislative Assembly precluded modification of the Constitution. The new Legislative Assembly, seated in May, did not revisit the issue prior to year's end.

In January, supporters of protesters, who seized the National Cathedral to protest the Government's healthcare system policies, injured TV journalists whom they accused of reporting the Government's point of view. The AG reported that neither the victims nor the witnesses have cooperated in the investigation, and at year's end the AG had not identified or charged the perpetrators.

In August, the Central American University (UCA) reported that two UCA newscasters received phone death threats after they criticized the Central America Free Trade Agreement and President Flores's anti-gang law on August 12. According to UCA authorities, on August 13 the Ministry of Governance asked for a copy of the editorial. The AG indicated that no investigation could be initiated until UCA filed a formal complaint; an attorney for UCA advised that the University had declined to do so.

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. El Diario de Hoy, a major newspaper, requires that anyone placing an advertisement on a controversial topic must leave a deposit to pay for a reply by an opponent, should a court order it. If no one claims the right to reply within 30 days, the newspaper returns the deposit to the individual or group who placed the original ad.

In September 2002, the legislature approved reforms to the Organic Law of the Court of Accounts, the national auditing agency, including a provision on public access to the agency's audits that required that the institution make the audits public only after appeals are exhausted. Critics maintained that, because appeals often drag on for years, the measure will unnecessarily delay public access to information.

In 2002, the Inter-American Press Association (IAPA) identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources. In October, the IAPA reported that both political and government organizations blocked journalists from having access to information of public interest.

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.

A 1996 law governing the registration, regulation, and financial oversight of NGOs and non-Catholic religious groups remained in effect. However, a 2001 Supreme Court 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 2002, 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 maquilas, although in late 2003 the case appeared to be nearing resolution (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 2003 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 the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum.

### *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 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 2002, 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; for example, 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 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, the country held legislative elections that observers generally reported to be free and fair although the BBC reported some minor irregularities. The FMLN won a plurality of 31 legislative seats. On two occasions in November, FMLN activists attacked caravans of ARENA party workers visiting FMLN-majority municipalities; television news videos showed a San Salvador metropolitan area FMLN mayor pummeling ARENA campaign workers with rocks.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems. Women accounted for 51 percent of the population; however, they represented 54 percent of registered voters in the March elections. Eight of the 84 legislators elected in March were women, with 16 women elected as alternate legislators. The Board of Directors of the Legislative Assembly is composed of six persons; two were women. In the Judicial Branch, 2 out of 15 Supreme Court justices were women. 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; however, the majority held positions in the lower-level courts.

Minorities, including indigenous people, are not barred from voting or participating in government and politics. In practice, only a few hundred Salvadorans identified themselves as ethnic minorities, and no one who identifies himself or herself 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*

Numerous domestic and various international NGOs operated freely, and the Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGOs. However, it was sometimes reluc-

tant to discuss worker rights issues with NGOs, and it refused to discuss the topic with the PDDH. 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.).

By year's end, the Ministry of Governance had not decided whether to grant legal status to the Independent Monitoring Group of El Salvador, an NGO that monitors respect for labor rights in maquilas.

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. Attorney Beatrice Carillo has held this post since 2001.

During the year, the Ombudsman expressed frustration with the Government's unwillingness—particularly the Attorney General's Office—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, a proposal in the Legislative Assembly to impeach the Ombudsman was defeated quickly in an ad hoc committee. Legislators noted that there were no grounds for the proposal after the Attorney General's office announced that its investigations showed the Ombudsman's actions did not contribute to police officers' deaths in a December 2002 prison riot (see Section 1.c.).

During the year, the PDDH accepted 2,479 complaints of human rights violations, compared with 3,303 in 2002 (see Sections 1.a. and 1.c.). The rights most frequently alleged to have been violated included personal integrity, due process of law, and labor laws—778, 286, and 270 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 such as 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.

The Centro de Intercambio y Solidaridad (CIS), an NGO involved in election monitoring, worker rights, and other human rights issues, reported that volunteers arriving July 17 and August 19 at Comalapa Airport had been denied entry on the grounds of "administrative restriction" by order of the Ministry of Governance. The entry refusals appear to hinge on the interpretation of Article 97 of the Constitution, which prohibits foreigners from participation in the internal politics of the country. The CIS Director also reported that police entered her office September 9 and took copies of lists of 23 students planning to come to the country as CIS volunteers.

#### *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, persons with disabilities, and indigenous people occurred in salaries and hiring. There were some instances of violence against homosexuals.

In June, before a Sexual Diversity Celebration, which commemorated people who had died from attacks associated with their sexual orientation or from HIV/AIDS, members of the municipal and National Civilian Police 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. No formal charges were filed either against the homosexuals and transvestites or the police.

Since June, the NGO, Entre Amigos, had trained 402 police officers to respect the rights of homosexuals in a program sponsored by the Netherlands. The program ends in February 2004.

Entre Amigos reported that in July, unknown persons killed three transvestites, Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz, as they walked on the principal street in Santa Tecla, La Libertad department. Entre Amigos presented a petition before the AG's office; investigations were ongoing at year's end.

In October, an unknown assailant killed Douglas Ademir Vasquez, a Soyapango transvestite known as "Giselle." Vasquez died from two gunshots to the head at close range. The PNC suspected that Vasquez was the victim of gang violence. The investigation continued at year's ends.

At year's end, Entre Amigos was preparing to present a formal complaint before the Ministry of Education on behalf of a 17-year-old student at a private academy who alleged she suffered discrimination from school authorities because of her sexual orientation.

In October 2002, 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 have their blood tested. During the year, NGOs, UNAIDS, and the Ministry of Health 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 made pre-employment HIV tests optional, rather than mandatory. According to media reports, through late November 2002 the Atlacatl Foundation, an NGO, had received six complaints from persons who alleged that their employment had been terminated after it was learned that they were HIV positive. In addition, in 2002, the Foundation maintained that three institutions of higher education required students who wished to pursue health-related careers to have their blood tested.

*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 was recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the AG's office, the CSJ, 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), defines policies, programs, and projects on domestic violence and maintains a hotline as well as a shelter for victims of domestic abuse. The ISDEMU received 4,706 complaints of domestic violence as of June, compared to 3,786 complaints in 2002. 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 AG to prosecute in the case of a rape, with or without a complaint from the victim, and as of 2001, a victim's pardon may not 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 may be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 652 complaints of sexual aggression as of June, compared to 464 in 2002.

In May, the decapitated bodies and severed heads of two young women were found at separate locations; the murders fit the pattern of Central American gang ritual slayings. No suspects had been charged at year's end. According to PNC reports, as of June, gangs killed, tortured, and mutilated 16 women.

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 a person to work as a prostitute. Prostitution was 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 EPZs reported sexual harassment (see Section 6.b.).

In January, a prominent women's rights organization, CEMUJER, reported that spouses and partners motivated by jealousy killed 238 women, aged 16 to 54 years, in 2002. At year's end, CEMUJER reported that spouses and partners motivated by jealousy had killed 311 women. CEMUJER also reported that 9 women had presented sexual harassment complaints against PNC officers and 47 complaints against employers of industrial services, including maquilas. CEMUJER received a total of 3,144 complaints during the year.

As of June, CEMUJER had trained 150 women police officers; in September, CEMUJER began providing legal counsel to 4 female employees who alleged harassment by PNC chiefs. During 2002, 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. (A 2001 report by CEMUJER asserted that sexual harassment was widespread within the PNC.)

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 84 days of maternity leave, usually taken after the baby is born.

Women suffered from cultural and societal discrimination and had reduced economic opportunities; men often received priority in available jobs and promotions. In particular, women were not accorded equal respect or stature in traditional male-dominated sectors such as agriculture and business. A 2002 UN Development Program (UNDP) study reported an illiteracy rate of 79 percent for women and 85 percent for men. A combined school attendance rate showed that 64.3 percent of women have registered for school versus 65.4 percent of men. One of the factors that contributed to girls' leaving school was teenage pregnancy. The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate in labor relations; however, it was difficult for employees to report such violations by their employers because they feared reprisals. A UNDP study showed that women earn on average \$3,350 per year, compared to \$7,381 for men. The one sector in which there was an exception to this practice was in the EPZs and maquilas, the largest source of new jobs, where women made up 85 to 90 percent of the workforce (see Section 6.b.). However, even in this sector, men held the majority of positions in management and in departments where employees received higher wages such as cutting and ironing. Training for women generally was confined to low-wage occupational areas where women already held most positions in fields such as teaching, nursing, home industries, and small businesses.

According to the same UNDP study, women held 25.7 percent of higher-level positions and 19.7 percent of municipal seats.

Women's organizations such as CEMUJER, Las Dignas, and the Melida Anaya Montes Movement were engaged in promoting women's rights and conducted several rights-awareness campaigns during the year.

*Children.*—A May report coordinated by International Program for the Elimination of Child Labor (IPEC) experts and sponsored by the International Labor Organization (ILO), World Bank, and others determined that overall, 1 out of 10 children worked, with approximately 13 percent of children aged 10 to 14 years in the workforce. The portion of the country's population aged 5 to 17 years represented 30 percent of the nation's total population. Child labor was more common in rural areas (15.7 percent) than in urban areas (7.7 percent). Approximately 60 percent of children worked in the informal sector in micro-agricultural and non-agricultural family enterprises, for which they did not receive monetary compensation.

Working children completed an average of 5.6 years of school, while nonworking children finished 8 years of school. Among families surveyed, 23.3 percent of respondents indicated that children cannot attend school due to economic problems.

At year's end, ISDEMU had 1,639 cases of child abuse and mistreatment on file. The ISNA reported 143 cases of child sexual abuse during 2002, compared to 173 in 2001. A majority of the victims were female.

In July 2002, the Ministry of Education, the PNC, and ISNA instituted a program to address the problem of student violence in San Salvador. The police delivered students, who were out of school unsupervised (often in bars, pool halls, or video game stores) during school hours, 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. At year's end, the police brought 169 youths to ISNA under this program.

The Government concentrated more on reducing poverty and promoting family stability through economic growth than in making direct expenditures on children's programs. With the encouragement of UNICEF, in September 2002, the National Secretariat of the Family submitted to the Legislative Assembly a new national policy of comprehensive attention for children and adolescents; the policy had not been approved at year's end.

Education is compulsory through the ninth grade. Public education is nominally free through high school. The Constitution 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. In September, the Legislative Assembly modified the law so that schools are prohibited from charging students any fees. The Ministry of Education continued to operate a hotline for the public to report school administrators who violated these laws. As of August, the Ministry had received 895 complaints of illegal school fees. 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 often withdrew their children from school by the sixth grade to work. According to the Ministry of Education, during 2002, 14 percent of primary school-aged children (ages 7 to 11) and approximately 32 percent of sixth- to eighth-grade aged children (ages 12 to 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 seven percent of children in rural areas attended school in grades six through eight.

Infant malnutrition continued to be a problem, particularly in the coffee-producing zones of Ahuachapan and Sonsonate. Where the incidence of malnutrition is high, the World Food Program, foreign donors, and UNICEF are helping to address this issue with targeted feeding programs. A 2000 study on child growth 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 had a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients and encourage breast-feeding, but progress was slow, particularly in rural regions.

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. As of September, the ISNA reported that over 1,173 children, some abandoned and others victims of mistreatment, were staying in its shelters.

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 68 cases of police abuse and mistreatment of street children during the year. Olaf Palme reported 9 cases of corrections-system abuse, 5 cases of school abuse, 1 case of mistreatment by ISNA, 11 cases of sexual abuse (including rape), 4 cases of domestic violence against children, and 4 cases of unpaid child support orders. All cases were reported to the PDDH and to the Attorney General's office. (The NGO reported that in previous years children feared reprisals if they reported the abuse.)

The PNC incorporated PDDH human rights training into programs for police units that deal with juveniles.

Child prostitution was a problem. Between 10 and 25 percent of visible prostitutes were minors, and an estimated 40 percent of the hidden prostitutes who cater to upper-class clients were believed to be minors, according to a UNICEF study released in 2000.

Children, especially those living on the streets, have been trafficked to other countries and then forced into prostitution (see Section 6.f.).

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

*Persons with Disabilities.*—In February, the Legislative Assembly debated and let stand a previously enacted special statutory law authorizing persons with disabilities to be members of a municipal board of directors.

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 consisted of former combatants and civilians wounded during the conflict. Government and international funding provided rehabilitation programs for these persons. During the year, the Government accepted few new registrations of persons wounded and disabled as a result of the 1980–1992 armed conflict, as mandated by legislation passed in 2001. From 2002 to the end of the year, a total of 5,413 former combatants asked for re-registration. The re-registration opened the way for more than 11,000 additional persons with disabilities to receive government benefits. As of July, the Government had accepted 1,053 new beneficiaries and disqualified 1,204 disabled former combatants from receiving benefits. According to Jesus Avalos of

the Association of Wounded Combatants of El Salvador, some former beneficiaries were experiencing psychological and drug problems.

Efforts to combat discrimination and increase opportunities for those whose disabilities are unrelated to the war were growing but remained inadequate. 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 for 50. The Ministry's limited resources and decentralization of its records meant that there were no reliable data on the number of persons with disabilities who were employed; however, the unemployment rate was 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. The Government and national and international nongovernmental organizations provided funding for the Salvadoran Rehabilitation Institute for the Disabled, which has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses.

*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. According to research done during the year by the Native Land NGO, Jose Matias Delgado University, the Environmental Ministry, and National Geographic, the country has three different classes of indigenous people: Nahua-Pipiles (western and central areas of the country), Lencas (eastern region), and Cacaoperas (eastern region). This research concluded that indigenous people had lost their traditional relationship with the land, that people of the capital believed that the country did not have an indigenous population, and that in general indigenous people were considered peasants.

During 1930–40, 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 continue to 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 existed in the poorest parts of the rural countryside where employment opportunities were few and domestic violence was a problem.

Indigenous people reportedly earned less than other agricultural laborers. Indigenous women in particular had 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 was a problem for 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 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 May, the CFA asked the Government to obtain a prompt judicial resolution in an anti-union case; however, at year's end the company had not responded to the Ministry of Labor's order that they respect workers' right of association. The case was still pending at year's end.

The organized labor sector has approximately 133 unions, 16 federations, and 3 confederations representing 142,500 workers in the private sector. In addition, there are 24 public employee associations and 26 campesino organizations that, together, had an estimated membership of 150,000 persons. Unions generally were inde-

pendent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

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.

Public agencies that provide essential services have the right to form unions but not to strike. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. None of these professional and employee associations have a collective bargaining agreement. Some of the most powerful labor groups are public employee associations, with which the Government negotiates. The Labor Code provides for mandatory arbitration of public services such as those provided by autonomous organizations or private companies. The Labor Code does not establish a procedure to solve conflicts in public administration. The Government has not amended legislation to recognize government workers' right to strike, as recommended by the CFA in 2000.

The law prohibits anti-union actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application.

Unions may strike only 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, a 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 who provide vital community services are not allowed to strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

On May 7, workers at the Anthony Fashions factory presented a petition to the Legislative Assembly asking for the impeachment of the Minister of Labor, the Minister of Economy, and the Attorney General for their failure to use due process to protect labor rights. In December 2002, Anthony Fashion announced that it was suspending production due to lack of orders from abroad; the company did not pay legal benefits, health security, pension contributions, and mandatory annual bonus for almost 15 months, and owed over \$1,000,000 to workers, pension agencies, private companies and the Salvadoran Social Security Institute (ISSS). The Public Defender Office (PGR) and NGOs tried to obtain redress for the workers, but the PGR concluded that under the law, to pursue such legal redress, it was necessary to determine the defendants' (owners') foreign address of record, for service of relevant documents and instruments. Although the company owners are believed to be residing in the United States, the country's Embassy and consulates were unsuccessful in determining the owners' address of record.

The ISSS, an autonomous government institution funded by payroll taxes and mandatory employer contributions, provides health care to people employed in the formal sector. ISSS workers continued a strike, begun in September 2002, to pressure the Government to stop purchasing health-care-related services from private companies. From September through the end of 2002, dozens of strike leaders and their family members reported receiving phone calls threatening that harm would come to them if they did not cease their activities. The AG's office interviewed victims and attempted to trace the calls. In January, the AG's Office closed all cases based on lack of evidence. In April, the Legislative Assembly approved a reinstatement decree for ISSS and Ministry of Labor employees; however, in May President Flores announced that he would veto the decree. A new mediation committee composed of three center party leaders, working with the Government and the strikers, structured a short-term agreement, and in July, ISSS workers returned to their jobs.

The Labor Code establishes that unions must be independent from political parties, but it does not prohibit partisan political activity per se. Although some unions are very closely and publicly associated with partisan political platforms, 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 service 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 negotiated with labor organizations directly, relying on the MOL only for such functions as officially certifying unions. The Ministry often sought to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry was biased against labor. Labor leaders asserted 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, although the MOL has received an increased budget to hire more inspectors, offer increased training to existing inspectors, and perform more labor inspections.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for one 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 circulation of lists of workers who would not be hired because they had belonged to unions.

In May, Human Rights Watch (HRW) reported on the obstacles that prevent workers from exercising their labor rights. Among these were inadequate labor laws that provided weak protection against anti-union suspensions and dismissals, that forced workers to go through excessively burdensome requirements to register a union, and that permitted employers to legally suspend workers as a way to circumvent labor law protections. In addition, the report accused of the MOL of failing to enforce labor laws and described complicated labor court procedures that prevent judicial enforcement of labor laws.

On December 4, HRW published a further report that found that workers rights were systematically violated by employers while the Government disregarded or even facilitated the abuses. The report called on the Government to strengthen its labor laws by requiring reinstatement for workers illegally fired or suspended for legitimate trade union activity, banning anti-union hiring discrimination, and streamlining union registration requirements according to ILO recommendations.

In March, the communications union, SITCOM, presented a legal status petition before the MOL. In May, the MOL denied the petition based on the fact that SITCOM did not meet the minimum number of affiliated employees (35). MOL argued that radio station workers affiliated with SITCOM were not part of the communications industry. MOL also argued that one of the companies considered two union-affiliated workers to be management employees, and therefore ineligible for union membership. In April, according to a SITCOM representative, a major telephone company forced SITCOM President Angel Moreno to present his resignation by retaining his salary. The company attempted the same with the union secretary, Jose Ayala, and prevented Ayala from entering the workplace. At the end of May, SITCOM presented a review petition before the MOL. In July, union-affiliated leaders met with the Minister, but at year's end, the union still had no legal status. In December, five SITCOM-affiliated workers lost their positions and were reassigned to lower-level jobs. This action violated Article 47 of the Constitution.

In May, the CFA announced that the Labor Ministry had no authority to declare illegal the May 2002 work stoppage by SELSA, the labor union at the LIDO bakery products company. In view of a court ruling that no strike had occurred in May 2002, the CFA found plausible the charge that the company had retaliated against the locked-out workers to block the union and asked the Government to obtain prompt judicial determination whether the lock-out was illegal, and to investigate the union's claim that its members had been pressured into dropping their legal claims. Finally, the Committee requested that the Government allow the union leaders access to the workplace. In September, SELSA asserted that the bakery company was negotiating with them. In November, SELSA elected a new union leader—an individual who had suffered discrimination at the bakery. The Ministry of Labor designated one of its highest-level advisors to follow this case. However, there were

no concrete developments toward resolution of the case at year's end, and all 11 union leaders remained locked out.

During the year, members of the Salvadoran Electrical Industry Union alleged that management at the electrical distribution company Delsur had been uncooperative during negotiations to renew the union's collective bargaining agreement, and that management was trying to break the union's representation of workers. At year's end, negotiations were at a stalemate, and the case was headed for arbitration.

In November 2002, Tainan, a major foreign-owned textile assembly factory that had closed permanently the previous April, signed an agreement with the Textile Industry Union in which the company committed to open a unionized plant and to establish a compensation fund for workers affected by the closure. The new company, named Just Garments, planned to initiate operations with 150 workers. In August, the Ministry of Economy provided the factory special authorization to operate. In October, Just Garments signed the first collective bargaining agreement in the country's maquila industry.

At year's end, none of the members of the Union of Electrical Sector Workers (STSEL) dismissed in 2001 and 2002 by the electricity companies CEL and ETESAL had received severance pay from the company.

In February 2002, the semiautonomous port authority (CEPA) and the airport union, SITEAIES, signed an agreement resolving their dispute over the 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. 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 2002, 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 2001 collective bargaining agreement between CEPA and SITEAIES.

There are approximately 240 maquila 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 and 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, worked 12- to 14-hour days, and had minimal toilet and rest breaks. The Government contended that the workers often preferred not to use safety equipment, and they had time for toilet and rest breaks.

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.

The MOL has 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, physical abuse by supervisors. The MOL had insufficient resources to cover all the EPZs, much less the much larger national private sector. Allegations of corruption among labor inspectors continued to surface (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 were no instances in which this has been used or even threatened publicly. The ICFTU 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 enforced this provision; however, trafficking in persons, primarily women and children, was 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 occurred in the formal sector; however, there were reports that minors were forced into prostitution, and trafficking in children was 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 was a problem. According to IPEC research, more than 220,000 children between the ages of 5 and 13 worked, with 30,000 children employed in hazardous activities. IPEC and MOL programs have helped over 5,000 children depart the workplace and re-enroll in school. In September, the Minister of Labor asserted that 67 out of 100 children were engaged in some form of work, including family household work. According to the annual household census conducted by the Directorate General of Statistics and Census 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 was difficult to monitor practices or enforce labor laws. Orphans and children from poor families frequently worked for their own or family survival as street vendors and general laborers in small businesses, mainly in the informal sector. Children in these circumstances often did not complete schooling. There were no reports of child labor in the industrial sector.

In May, the ILO's IPEC published a research paper entitled *Understanding Child Labor in El Salvador*. According to the IPEC data, 1 out of 10 children worked. Children's participation in work activity increased with age; while less than 2 percent of children aged 5 to 9 work, approximately 13 percent of children aged 10 to 14 worked. Child labor was more common in rural areas (15.7 percent) than in urban areas (7.7 per cent). Approximately 60 percent of children worked in the informal sector in micro-agricultural and non-agricultural family enterprises, and they did not receive a salary.

In September, a Ministry of Labor report on the eradication of child labor indicated that 5,000 child laborers had been removed from work situations and re-enrolled in school since 1999. The MOL is responsible for enforcing child labor laws; in practice, labor inspectors focused almost exclusively on the formal sector, where child labor was 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 were 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. IPEC research revealed that in the fishing industry, for example, most child workers worked 7 to 8 hours per day. About 20 percent also attended school, but only 4 percent completed the ninth grade. They were hired on daily contracts, usually verbal, and the majority were paid cash and/or a share of the catch at the end of the day. As of September, IPEC and MOL had taught 200 persons to read and write, including children in sugarcane farms. The MOL received few complaints of violations of child labor laws, because many citizens perceived child labor as an essential component of family income rather than a human rights violation.

According to IPEC, 17,000 children are at risk to start working. IPEC expects to rescue 9,300 children who already work from 2002 to 2005.

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 Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The minimum wage is set by executive decree based on recommendations from a tripartite committee (which includes government,

labor, and business). In May, the tripartite committee agreed to raise the minimum daily wage to \$5.28 for service employees, \$5.16 for industrial laborers, and \$5.04 for maquila workers. The agricultural minimum wage remains \$2.47, with \$3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The MOL is responsible for enforcing minimum wage laws and generally did 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.

There were no developments in the case of Laitex, a foreign-owned maquila, which ceased operations in January 2002 without paying its workers two weeks' salary, mandatory annual bonus payments, or severance.

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 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 pool 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 fourth month of pregnancy. Health and safety regulations were outdated, and enforcement was inadequate. The MOL attempted to enforce the applicable regulations but had 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 had dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

There were no new developments in the July 2002 case when hundreds of workers showing classic signs of airborne contamination by a toxic substance were evacuated from several maquilas in a free trade zone.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country for sexual exploitation. Although trafficking was a problem, there was no evidence government officials participated in, facilitated, or condoned trafficking in persons.

The two laws that dealt most specifically with trafficking assessed criminal penalties ranging from 4 to 8 years' imprisonment and, for international trafficking, 5 to 15 years' imprisonment. There were no civil penalties for trafficking. During the year, the Government arrested no one for trafficking, prosecuted no accused traffickers, and sentenced no one for trafficking. The government agencies directly responsible for combating trafficking are: The Women and Children Protection Unit of the Attorney General's Office (FGR), the PNC, the child welfare agency (ISNA), and the Directorate General of Immigration (DGM). However, these units were new and poorly funded. Other governments did not request the Government's assistance on any international trafficking investigation or extradition of traffickers during the year.

El Salvador was a country of origin and destination for international trafficking in women and children, mostly the harboring of child prostitutes. Anecdotal information suggested it was also a transit country for international trafficking for the same purpose. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which the commercial sex act was induced by force, fraud, or coercion. Neither the Government nor NGOs had reliable estimates on the extent of trafficking. Most international trafficking victims came from Nicaragua, Honduras, and South America. Most of these were trafficked to Guatemala and Mexico, and it was often assumed that the ultimate destination of the majority of these victims was the United States. Salvadoran victims came mainly from the east and were trafficked to Guatemala, Mexico, and the United States, as well as the ports of Acajutla and La Libertad. Particular groups at special risk for trafficking were: Girls and young women from 12 to 19 years of age; persons from rural and poor areas; single mothers in poor areas, adolescents without formal schooling, adolescent mothers, and unemployed young men; and foreign girls. According to newspaper reports of uncertain reliability, girls and young women worked as prostitutes. The commercial sexual exploitation of children was a problem.



The most common methods of recruitment were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers, according to police. There was no information about how victims were transported.

There was no evidence the Government or individual members of any government agency facilitated, condoned, or were otherwise complicit in trafficking. There was no evidence government authorities received bribes from traffickers or otherwise assisted in their operations. The Government did not condone trafficking-related practices such as sham marriages, clandestine employment and immigration, or false adoptions.

The Government provided legal, medical, and psychological assistance to detained illegal migrants, including those who might have been trafficking victims. The Government funded foreign and domestic NGOs that provided services to illegal migrants who might also have been trafficking victims. ISNA provided protection, counseling, and legal assistance to abused, homeless, and neglected children, including those who might also have been trafficking victims. Repatriated Salvadorans, including those who might have been trafficking victims, received government assistance through the Welcome Home program, which helped newly arrived deportees (including possible trafficking victims) reintegrate into society. Administered by the Catholic Relief Services, this program was highly successful.

Three NGOs worked with trafficking victims: ECPAT International, the Stone Flower Association, and Doctors Without Borders. ECPAT International worked on the prevention and reduction of child prostitution, pornography, and trafficking of children for sexual purposes. The Stone Flower Association provided health and education services to prostitutes, some of whom might have been minors or trafficking victims. Doctors Without Borders provided assistance to children that have been victims of involuntary servitude or debt bondage. Furthermore, in San Salvador, the municipal police, the mayor's office, and Doctors Without Borders sponsored a program for victims of forced prostitution.

The Government detained illegal migrants, including those who might have been trafficking victims. There was no information of whether foreign victims of trafficking were jailed, deported, or fined. The police encouraged Salvadoran trafficking victims to press charges against traffickers. A foreign trafficking victim may file a criminal case. However, in practical terms, illegal migrants, including foreign victims of trafficking, were deported so quickly they did not have the opportunity to do so. The Government deported non-Salvadoran victims of trafficking; however, victims could obtain temporary residency or refugee status if they were likely to face persecution in the country of origin. Access to legal, medical, and psychological services was provided to the victims. Victims of trafficking were not treated as criminals. The Government did not provide assistance to its repatriated citizens who were victims of trafficking, nor did it support the NGOs that assist them.

The Government sponsored televised-public service announcements showing the actual living conditions of women who were promised jobs in the United States and warned that these women ended up spending a portion, sometimes the rest of their lives as prostitutes in brothels, bars, and nightclubs in Guatemala or Mexico.

## GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. On November 27, Prime Minister Keith Mitchell's New National Party (NNP) won 8 out of 15 seats in Parliament. Observers found the elections to be generally free and fair, and they were free of violence. The judiciary is independent.

The only security force, the Royal Grenada Police Force, is responsible for maintaining law and order. It was controlled by and responsive to civilian authorities. Some members of the security force committed occasional human rights abuses.

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 2.5 percent.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, including violence against women and instances of child abuse.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports 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. The Police Commissioner continued to speak out strongly against police use of unlawful force. No charges were brought against the police for brutality, although individual allegations of it were cited on radio call-in talk shows.

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 830-person national police force had a hierarchical structure and was generally effective in responding to complaints; however, lack of resources was a problem. While individual cases of corrupt or abusive police have been reported, there has not been a generalized problem of police corruption. The police investigated allegations of police brutality internally. The Police Commissioner could discipline officers (up to the rank of sergeant) in valid cases of brutality with penalties that include dismissal. Only the Public Service Commission can discipline officers with the rank of inspector or above.

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 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 appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not represented previously or reappoints 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. However, the Organization of Eastern Caribbean States appointed an extra judge to clear the backlog in civil cases, which was accomplished. Assizes are held three times a year for a 2-month period. 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 freedom of assembly for any peaceful purpose and for freedom 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 2003 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. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

### *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. On November 27, the incumbent NNP administration of Prime Minister Keith Mitchell retained power by winning 8 of the 15 seats in Parliament; however, 1 of the NNP's seats was being contested in court at year's end. The opposition National Democratic Congress Party won the other seven seats. An electoral observation team from the Organization of American States (OAS) assessed the elections as generally free and fair but noted some irregularities. The OAS team found that the large list of registered voters included many persons who actually resided abroad but who were registered for years.

There were no legal or other impediments to the participation by women in government or politics. Voters elected 4 women to Parliament; there were 4 women among the 12 appointed Senators. Women filled 8 of the 13 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. At year's end, the Commission's final report had not yet been presented to the Government. Former Deputy Prime Minister Bernard Coard and 16 other leaders of the former People's Revolutionary Government convicted for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues remained in jail. In October, Amnesty International called for a further judicial review

of these cases, stating that the initial trial and sentencing had been seriously flawed.

*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 enforced these provisions.

*Women.*—Women’s rights monitors believed that violence against women remained a serious problem. 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.

*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, St. George’s University, and a New York-based group called International Group for Home Living formed a coalition to advocate for the rights of persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers are free to organize independent labor unions. Although employers are not legally obliged to recognize a union formed by their employees, they generally did so in practice. Labor Ministry officials estimated that 45 percent of the work force was unionized. Union leaders played a significant role in the political process, and one labor leader serves 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 anti-union discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of anti-union 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 belonged 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 are 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 are 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 the Grenada Teacher’s Union and Call Center Grenada.

There are 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.*—There is a tripartite Wages Advisory Committee, composed of union, business, and government representatives. The Labor Ministry prescribes minimum wages, which took effect in September 2002. 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.

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## GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The Constitution provides for universal suffrage to elect a one-term president and a unicameral congress. Elections for president, considered by international observers to be free and fair, were held in November and December, and Oscar Berger of the three-party coalition Grand National Alliance (GANA) won a 4-year term. The judiciary is independent; however, it suffered from inefficiency, corruption, and intimidation.

The Minister of Interior oversees the National Civilian Police (PNC), which has primary responsibility for internal security. There are no active members of the military in the police command structure; however, the Government occasionally ordered the army to support the police. The law subordinates military personnel to police control during joint patrols or operations. The army is responsible for external security, and the Constitution requires that the Minister of Defense be a military officer. A number of retired military officers with ties to violent, organized crime continued to have significant influence within the army, police, judiciary, and executive branch. Some members of the security forces committed human rights abuses.

The economy is market-based, and the population was approximately 11.5 million. Textile and nontraditional agricultural exports grew rapidly, while coffee, sugar, and bananas were the leading traditional exports. Remittances from citizens abroad constituted the largest source of foreign exchange and more than 30 percent of the population depended on remittances to raise the family income above the poverty line. The economic growth rate was approximately 2 percent. Almost 40 percent of the work force and 60 percent of the poor were engaged in some form of agriculture. Inflation was 6.3 percent. Land distribution is highly skewed: 1 percent of farms contained more than one-third of all cultivated land. There was a marked disparity in income distribution, and poverty was pervasive, particularly in the large indigenous community. Approximately 57 percent of the total population and 72 percent

of persons in rural areas lived in poverty. Combined unemployment and underemployment reached 18.2 percent, and 70 percent of the population was employed in the informal sector. Foreign aid is an important part of national income.

The Government's human rights record was poor; although there were improvements in some areas, serious abuses persisted. There were credible reports of killings by individuals linked to security forces and of politically motivated killings by nonstate actors. There were reports of violent deaths, killings, and "social cleansing" in which persons deemed socially undesirable (for example, gang members, local delinquents, street children, prostitutes, and homosexuals) were killed by unknown assailants. There were no reports of politically motivated disappearances. The Constitutional Court confirmed the 2001 conviction of three former military members and one priest for the 1998 killing of Bishop Gerardi. An appeals court overturned the 2002 conviction of Juan Valencia Osorio for the 1990 murder of anthropologist Myrna Mack Chang. In October, the President completed the disbanding of the Presidential Military Staff (EMP).

There were credible reports of individual police officers' involvement in kidnappings. Security forces tortured, abused, and mistreated suspects and detainees. Prison conditions remained harsh. In most cases, the prosecutorial and judicial systems did not ensure full and timely investigations, fair trials, or due process. Arbitrary arrest and lengthy pretrial detentions were problems. Judges and other law enforcement officials were subjected to intimidation and corruption. Impunity was pervasive, although efforts to reform the judiciary continued. There were reports that private communications were monitored. Members of the media were targets of attacks, threats, and intimidation. Attacks on nongovernmental organizations (NGOs) and human rights workers by unidentified persons decreased during the year. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against persons with disabilities and indigenous people, which the Government took some steps to address. There were reports of retaliation by employers against workers who sought to form unions and participate in union activities, and the Government did not effectively enforce laws to protect workers who exercised their rights. There was widespread employment of minors in the informal sector. Trafficking in women and children was a problem.

The Government accepted the Human Rights Ombudsman's proposal for a U.N.-led commission to investigate possible links between illegal clandestine groups or security forces and attacks on human rights defenders and organized crime; at year's end, the agreement was scheduled to be submitted to the Congress for ratification in January 2004. The U.N. Verification Mission in Guatemala (MINUGUA) continued to monitor peace accord implementation and human rights problems, and the U.N. extended its mandate to the end of 2004, at the Government's request.

#### 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 political killings by state actors; however, security forces committed a number of killings. The Government arrested and prosecuted some of those responsible; however, in many cases, the weak investigative, enforcement, and 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.).

In July, Auxiliary Human Rights Ombudsman for Chimaltenango Province, Josue Israel Lopez, was killed; investigators suspected personal rather than political motives for the crime. No one had been arrested by year's end. The Special Prosecutor for Human Rights, Thelma de Lam, who is investigating the case, reported receiving death threats and a lack of cooperation from the local police.

MINUGUA reported that it had confirmed 7 extrajudicial killings between July 2002 and June 2003, compared with 13 such killings in the previous year. (MINUGUA considers extrajudicial any killing by a state actor, whether by or not by orders of the Government.) There were no confirmed cases of persons killed by orders of the Government or with its complicity.

MINUGUA's report noted a number of killings by members of the police. Many of these cases involved the accidental discharge 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. While the number

of lynchings decreased, MINUGUA reported that a larger percentage of the incidents involved municipal officials, particularly auxiliary mayors.

In April, human rights activist and Mayan priest Diego Xon Salazar was killed in Chichicastenango, Quiche. Xon Salazar had reportedly received multiple death threats related to his work denouncing the resurgence of the Civilian Defense Patrols (PACs) in the Quiche. PACs were paramilitary elements conscripted by the military during the internal conflict, which were responsible for many of the summary executions, disappearances, instances of torture, and other serious human rights violations. In May, Mayan priest Gerardo Camo Manuel was killed during a religious ceremony in Rabinal, Baja Verapaz, after reportedly receiving death threats from one or more members of his community. On December 9, the prosecution arrested two police officers for Camo Manuel's killing; a trial was pending at year's end.

On April 9, 16 agents of the PNC's former Department of Anti-Narcotic Operations (DOAN) were convicted and sentenced to 25 years in prison for the January 2002 murder of Leonel Diaz Valenzuela and Abinail Cerna, and on August 21 an appeals court confirmed the sentences.

There were no developments and none were expected in the February 2002 shootout between members of the Criminal Investigative Service (SIC) of the PNC and military intelligence personnel that killed two members of the military, and injured three police officers.

There was no further progress in the April 2002 killing of Rudy Castillo and Erick Garcia in Sumpango, Sacatepequez, allegedly by the police. The case against a police officer charged in the killing was closed after investigation; two other PNC suspects remained at large.

There was no progress in the April 2002 killing of William Ruano Mayen, the son of Pascual Ruano, a witness in the Bethel Route case in which some 18 individuals were killed in 1997–99 by a group of former military and PAC members. Evidence suggested links between Mayen's killers and the Bethel Route killings.

During the year, there were several reports of deaths of detainees or prisoners during riots at two different federal prisons. Most cases from previous years went unresolved. In the case of the 2000 death of Luis Armando Colindres while in police custody, the courts released the three policemen implicated in his death and detained by the prosecution after they paid \$126 (1,000 quetzals) each.

Most cases of political killings from past years remained unresolved, such as those of former presidential candidate Jorge Carpio in 1993 and, in 2001, of Luis Garcia, a witness to the 1998 Gerardi killing. There was some progress in cases of past extrajudicial killings by members of the security forces; however, 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 May 7, an appeals court overturned the October 2002 conviction of Juan Valencia Osorio for the 1990 murder of anthropologist Myrna Mack Chang. On June 19, Helen Mack requested the Supreme Court to annul the appeals court decision, and the request remained pending at year's end. In February, the Inter-American Court of Human Rights heard the Mack case. During the trial, the Government admitted state responsibility for Myrna Mack Chang's killing. On December 19, the Court found the state responsible for Myrna Mack Chang's death and the denial of justice in her case. The Court ordered the Government to pay \$779 thousand (6 million quetzals) in compensation and to take other steps to recognize its responsibility.

On October 1, the Constitutional Court confirmed 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 ODHAG. On August 20, at the ODHAG's request, the Attorney General named Jorge Antonio Garcia the new prosecutor for the case. MINUGUA continued to confirm multiple reports of threats, acts of intimidation, and surveillance by those involved with the case; the body of a key witness, who was reportedly killed in December 2002, was found on January 21, and on October 5, Erick Urizar, a defense witness in the case, was shot to death, although it was unclear that Urizar's killing was politically motivated (see Sections 1.e. and 4).

In August, Public Ministry prosecutor Mario Leal reported that at least 20 of the 183 individuals listed in the "Military Diary" (an alleged military record of civilians subjected to forced disappearances between 1983 and 1985) 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 and police but claimed many of the witnesses were reluctant to participate for fear of retribution.

Progress in some massacre cases dating to the 1980s remained stalled. The Inter-American Court of Human Rights has not set a date for a trial in the case of the

1982 massacre in Plan de Sanchez, Baja Verapaz, in which the army and PAC members allegedly killed 268 people. The Government still has not complied with a settlement, including economic reparations, which the President's Commission on Human Rights (COPREDEH) promised in 2000 after admitting state responsibility for the massacre.

Despite a 2001 Supreme Court order to proceed with the trial of 5 guerrillas for the 1988 massacre of 22 civilians in El Aguacate, Chimaltenango, there was no progress in the case.

On June 3, the regional sentencing court in San Pedro Carcha, Alta Verapaz, reopened the 1995 Xaman massacre case. The trial charged the 16 defendants (all soldiers) with the murder of 11 civilians in Chisec, Alta Verapaz. Approximately 30 members of the Aurora 8 de Octubre victim community testified in August and September. A verdict was pending at year's end.

The case of the 1982 military massacre of 250 civilians at Dos Erres, Peten, remained stalled in court by 34 motions of appeal by the defense. In February, the Families of the Disappeared in Guatemala (FAMDEGUA) filed a motion with the Inter-American Commission on Human Rights Commission (IACHR) requesting the Commission to reopen the case if the Government did not comply with its unfulfilled commitments. On April 25, COPREDEH and San Carlos University signed an agreement to launch the Project for Psychological Assistance for the Victims of the Dos Erres Massacre, in compliance with part of the reparation commitments. The 10th Court of Appeals continued analyzing a series of appeals requesting that the defendants be granted amnesty under the National Reconciliation Law, while MINUGUA, FAMDEGUA, and the prosecutors, stated that the assassination of civilian population should not be considered a military action but rather a heinous crime that must be punished.

Prosecutor Mario Leal completed witness interviews in connection with lawsuits filed in 2000–2001 on behalf of communities where civilians were massacred by government security forces. Leal compared the declarations of the witnesses with the forensic reports from the exhumations in 22 different communities, which form the Association for Justice and Reconciliation, the private plaintiff in the case. 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 President of Congress, General (retired) Efraín Ríos Montt. The cases were transferred from the metropolitan courts to the regional court in Nebaj, Quiché. Human rights lawyers working on the case formally requested that the regional Quiché judge recuse himself, since the cases encompassed crimes committed throughout the country. Many believed the transfer of the cases was a stalling tactic.

Exhumations of secret mass graves continued throughout the year but occasioned death threats. Exhumation teams reported that some communities had lost their resolve to participate (see Section 4). Forensic scientists have exhumed more than 2,335 remains from more than 280 sites since exhumations began in 1992. Between January and December, forensic scientists exhumed 363 remains from 79 different sites. Exhumation teams increased their productivity tenfold in the last decade, but noted that demand for exhumations increased and the work could continue for several decades to come. Most of the bodies recovered were those of civilian victims of military or paramilitary killings in the early 1980s. Forensics groups used the information obtained from the exhumations to verify eyewitness reports of massacres—of which the Commission for Historical Clarification recorded 669—and to assign, at least in general terms, responsibility. Forensic research and DNA testing identified some of the remains and were used in some criminal cases.

In June, family members of victims of the Rabinal, Baja Verapaz, massacres participated in a reburial of approximately 70 bodies after the examination of the forensic evidence had been made by the Guatemalan Forensic Anthropology Foundation and the Public Ministry. The group collided with a Guatemalan Republican Front (FRG) campaign rally for presidential candidate Ríos Montt, planned by the regional FRG congressman for the same day as the reburial. The reburial participants threw stones at Ríos Montt, who was forced to leave the scene abruptly. Human rights activists operating in Rabinal reported increased death threats and surveillance after the incident.

In March, the Spanish Supreme Court ruled that it had jurisdiction over the human rights abuses committed against Spanish citizens involved in the massacre at the Spanish Embassy and the five Spanish priests killed in Guatemala in the early 1980s. The case was filed in 1999 by Nobel Peace Prize-winner Rigoberta Menchú 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. A trial date had not been set at year's end.



On March 20, the Government announced that 250,000 former members of the former PACs would receive approximately \$660 (5,241 quetzals) each for their services during the internal conflict and distributed the first payment of \$216 (1,710 quetzals) in April. The Government's agreement to provide indemnification prompted protest from civil society groups and international human rights observers, who noted that some ex-PACs were implicated in human rights abuses and that families of their victims had not yet received compensation.

On May 9, the law creating the National Reparations Plan went into effect, providing for a National Reparations Commission with a budget of \$388 million (3,081 million quetzals) over 11 years to identify the victims of the war and award them reparations payments.

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 killings. In the period leading up to the November national elections, there were at least 29 killings of opposition political candidates, although the Organization of American States (OAS) Mission reported that only 2 of the killings were clearly election related (see Section 3). In some of these cases, evidence was not sufficient to conclude whether the killing was politically motivated. On October 19, National Unity of Hope (UNE) party member Hugo Garcia was shot by two individuals while attending a political meeting at the UNE headquarters in Jalapa. Two suspects were arrested and awaited trial at year's end. On May 13, FRG mayor Hugo Cal reportedly shot Unionista party member Byron Vladimir Jom in San Cristobal Verapaz, Alta Verapaz as Jom was posting campaign propaganda. Cal was in police custody, awaiting trial, at year's end.

There was no progress in the case of the February 2002 killing of Cesar Rodas, a witness in the 2001 Government Printing Office case. Despite a 2002 IACHR order that the Government provide police protection to five of the witnesses, who reported being followed and threatened by unknown individuals, several of them reported assassination attempts during the year.

There was no progress in the March 2002 killing of Jorge Rosal, a regional leader of the Patriot Party, and none was likely.

Ever Lopez Gomez and Billy Rene Barrios, suspected in the April 2002 killing of Menchu Foundation accountant Guillermo Ovalle, remained in prison awaiting trial (see Section 4).

There were several killings characterized as acts of "social cleansing" in which persons deemed as socially undesirable were killed. In February, Casa Alianza Director Bruce Harris called for a thorough investigation into the murder of street child Oscar Garcia; Harris said that only 5 percent of the cases of murdered street children reported to the Public Ministry ever went to trial. Street children continued to be the victims of violence by unknown persons (see Section 5). There were multiple reports of women tortured, disappeared, and killed (see Sections 1.c. and 5).

There was no progress in the investigation of the 2001 killing of Sister Barbara Ann Ford. The prosecutor had not established a motive.

The police reported that between January and August there were 18 attempted lynchings in which 14 victims died, compared with 61 such attempts resulting in 25 deaths in all of 2002. MINUGUA continued to verify cases that were planned or premeditated events, some of which included 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 where the justice system is least accessible. MINUGUA concluded that the Government's weak response to crime fueled partial public acceptance of lynchings.

On August 3, fighting broke out between the two towns of Ixchiguan and Tajumulco, San Marcos, over a land conflict. When police and army personnel entered the area in an attempt to quell the fighting, the villagers turned their weapons against them. At least two policemen and one soldier were killed.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, there were credible allegations of individual police involvement in kidnappings. Between January and November, the Public Ministry opened seven cases of kidnapping against three female and four male police officers. Six of the kidnappings took place in the department of Guatemala and one in the department of San Marcos. The investigations remained pending at year's end.

There were no developments and none were expected in the January 2002 case in which DOAN agents, conducting a drug raid in Chochon, Izabal, illegally detained Humberto Orellana Sis, who subsequently disappeared and whose whereabouts remained unknown (see Section 1.a.).

Disappearances in high-profile cases from past years remained unresolved at year's end. In the case of the 2000 disappearance of University of San Carlos professor and social activist Mayra Gutierrez, the Public Ministry identified a primary

suspect and requested the police to apprehend him; however, the suspect was believed to have fled the country.

On March 19, the Government formally recognized the National Commission for the Search for Disappeared Children, which is now headed by the Human Rights Ombudsman's Office. The Commission was created by civil society organizations in 2001. In June, the Commission released its second annual report, which documented 575 cases of disappeared children and reported 43 family reunifications since June 2002; in the last 2 years, the Commission has documented 1,000 cases and performed 60 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 January, the Government complied with part of the February 2002 IACHR order to award \$498,000 (3,859,500 quetzals) in damages to the survivors of disappeared guerilla leader Efraim Bamaca Velasquez and publicly acknowledged state responsibility for his death; however, the Government has yet to locate his remains.

The appeal of the 2001 court decision to dismiss the case against retired general and former de facto President Oscar Mejia Victores for his alleged role in the 1984 disappearance of Fernando Garcia remained pending 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. Criminal Investigative Service (SIC) detectives continued to torture and beat detainees during interrogation to obtain confessions. 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. The bodies of a significant number of victims showed signs of torture or cruel treatment (see Section 1.a.).

In August, MINUGUA reported that it had investigated 83 complaints of torture and cruel, inhuman, and degrading treatment and confirmed 79 of them between January and August. The police, particularly the SIC, committed most of the violations. 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 documentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct.

In March, members of the Anti-narcotic Analysis and Information Service, the SIC, the Public Ministry, and the army unlawfully detained and tortured Salvador Hernandez Duarte, Vicente Atilio Mejia Alvarez, and Victor Hugo Gil Pena in a counter-narcotics operation in Military Zone 5, Rio Hondo, Zacapa. According to MINUGUA, security forces attempted to gain information about the location of a narcotics shipment by using electric shock treatments on the detained subjects. No action was taken against the perpetrators.

There were multiple reports of women tortured, disappeared, and killed (see Sections 1.a. and 5).

In the 2002 torture and killing of Manuel Garcia de la Cruz, a member of National Coordinator of Widows (CONAVIGUA), a human rights group, in Joyabaj, Quiche, the investigative team arrested the primary suspects and were preparing for the trial at year's end.

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 continued forcible occupation of more than 60 farms. 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.

Prison conditions remained harsh. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. According to the registry maintained by the prison system, there were 8,459 prisoners throughout the country, while the official capacity of the prison system was 6,974. The overcrowding of jails was particularly severe in the department of Zacapa, where a prison designed to hold 140 inmates held 325, and in Guatemala City prisons Pavon and Preventivo, which were designed to hold 2,482 inmates and held 3,525. Approximately 60 percent of the prisoners were being held in pretrial detention. The average guard-to-prisoner ratio was 1 to 12.

Prisoners continued to complain of inadequate food and medical care. Corruption, especially drug-related, was widespread. Prison officials reported frequent escape at-

tempts and other manifestations of prisoner unrest. The military continued to provide perimeter security for various prisons.

The case of the 2001 breakout of 78 prisoners from the Escuintla maximum security prison, allegedly with the collaboration of prison authorities, concluded in late October when the prison director was sentenced to 16 years in prison; the sub-director and 20 guards were sentenced to 6 years in prison, and 2 wardens were acquitted. All of those convicted appealed, and the appeal remained with the 12th Appeals Court at year's end. In late November, all the inmates who escaped were sentenced to an additional 15 years in prison. None of the inmates appealed the sentence.

The 452 female prisoners in the penal system were held in facilities separate from men; however, the conditions were equally poor. Immigration detention facilities did not always hold female detainees separate from the male population. Children were held separately from adults. The Secretariat for Social Welfare runs four Centers for the Treatment and Orientation of Minors: One for girls and three for boys.

On July 18, the Congress passed a Minors' Protection Law, which reformed the Penal System and outlined the rights and mandated treatment of minors in detention (See Section 5).

The vast majority of juveniles detained by authorities are between 16 and 18 years old. Between August 2002 and July 2003, the police arrested 1,450 minors: Approximately 20 percent of the arrests were made for robberies and 13 percent for drug possession.

Pretrial detainees often were not separated from convicted criminals. Those serving time for minor infractions were often held with those who had committed serious offenses.

The Government permitted prison visits by independent human rights observers, public defenders, religious groups, and family members. Such visits took place during the year.

*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 failed to satisfy legal requisites, particularly 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.

The country is divided into 6 police districts, each subdivided into 28 "comisarios." Between district and comisario level, there are four special units, each headed by police officers for: Information and intelligence; counter-narcotics; investigations; and environmental enforcement. A Director General, a uniformed police officer appointed by the President, directs the districts. Since its inception, the 21,000-member PNC has been understaffed, poorly trained, and severely underfunded. Police corruption was 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. Impunity for police who commit abuses remained a serious problem.

All PNC members must meet minimum education requirements, pass an entrance examination, and undergo screening to detect suspected human rights violators and involvement in criminal activities. Training for new recruits was cut from 11 to 6 months in an emergency effort to get more police on the street. Police training incorporated 35 course hours on human rights, but none of the 20,000 officers trained since 1997 has received refresher training. The military continued to incorporate human rights training into its curriculum and developed human rights courses with the Human Rights Ombudsman (PDH). Civil Affairs Officers at each command were required to plan and document human rights training provided to soldiers. A separate human rights office within the Office of the Minister of Defense was open to active participation by the human rights community.

There were 21,180 PNC officers or 1 for every 543 persons. Presence outside of the capital improved; however, approximately two-thirds of those police districts remained 60 to 75 percent staffed. The PNC reported that 2,036 of its officers were indigenous.

According to the Interior Ministry, more than 60,000 private security agents worked in the country. According to the Gremial Federation and Security Association, approximately half worked for firms that had not completed legal requirements

and were owned by ex-soldiers and policemen. Despite its responsibility for regulating private security firms, the Ministry did little to investigate this.

The ORP performs internal investigations of misconduct by police officers. The ORP has a strong corps of investigators and has shown considerable improvement in professionalism; however, its independence and effectiveness were hampered by the lack of support from the PNC leadership. In isolated cases, ORP investigators appeared to participate in cover-ups of police misconduct. The ORP reported that it received 1,868 complaints which included: 40 cases of homicide, 200 cases of abuse of authority, 274 thefts, 214 cases of corruption or bribery, 179 threats, and 116 illegal detentions. Cases with sufficient evidence to suggest that criminal acts were committed were forwarded to the Public Ministry for further investigation and prosecution. During the year, ORP closed 1,062 cases, and its investigations resulted in the exoneration of 1,720 police officers.

No active members of the military serve in the police command structure, although the Government may employ the army to support the police temporarily 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 July, in response to large-scale violent demonstrations in support of Rios Montt's efforts to register as a presidential candidate, President Portillo announced that he was calling out the military to assist the police in restoring order. Only a minor military presence was noted in support of police during the following days, prompting numerous accusations that the military had disobeyed a presidential order. The President subsequently relieved General Rios Sosa, the country's second-ranking military officer and the son of Congress President Rios Montt, of his command.

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 rarely lodge formal complaints, either with the authorities or against them, and there is little legal assistance available to such persons.

Detainees were allowed prompt access to counsel; however, very limited resources were devoted to the public defense system.

There was a bail system.

There were no 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 August, MINUGUA reported that it investigated 49 cases of illegal or arbitrary detention and confirmed 41 of them between January and August.

Of the 8,459 prisoners in custody as of September, 3,319 had been sentenced and the rest awaited trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions 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 the Government did not use it. However, self-imposed exile is a 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 failed to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. A May report by Amnesty International claimed that the failure of the legal system to deliver justice was a major factor contributing to intimidation against the country's human rights community and others trying to combat impunity in this situation. 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. There were credible reports of the killing and threatening of witnesses, which continued to be a problem (see Sections 1.a. and 1.c.).

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.

Judges and prosecutors continued to receive threats designed to influence pending decisions or to punish 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 PACs. Witnesses were often too intimidated to testify. 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.). Those involved in government corruption cases were also targeted, as in the cases of Karen Fischer and Tatiana Morales, former Special Anti-corruption prosecutors, who resigned after receiving threats and pressure from within the Government.

Many judges were denied private health and life insurance because their jobs were too dangerous. Between January and August, the Public Ministry spent approximately \$170,000 (1.3 million quetzals) on its witness protection program. By August, the judicial system had received 80 complaints of threats against judges, compared with 76 in all of 2002. The Special Prosecutor for Crimes against Judicial Personnel investigated 77 cases but lacked the personnel and resources necessary to carry out his mission.

In January, Supreme Court Magistrate Hector Mauricio Rodriguez Argueta was killed in what police concluded was an attempted car-jacking.

In March, an explosive device was detonated outside of Supreme Court Magistrate Jose Rolando Quezada Fernandez's home.

In June, the Mack Foundation reported that 114 judges and 8 prosecutors reported receiving threats during the year.

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 provides for oral trials; however, only those attorneys who have graduated since 1994 have had any real training in oral trials. The Code also provides for language interpretation for those who require it; however this provision was rarely honored due to budgetary and other constraints (see Section 5). Nationwide, the Institute for Public Defense employed six interpreters, six bilingual public defenders assistants, and four public defenders who spoke indigenous languages. The Attorney General's Office, or Public Ministry, 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 led to excessively long pretrial detention (see Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties used such motions as delaying tactics, frequently holding up trials for months or even years.

In August, Supreme Court President Carlos Larios Ochaita reported that the Court's budget for 2004 was \$166 million (1.3 billion quetzals), which he claimed was inadequate for even the basic needs of the judiciary without considering the creation of the new court provided for in the Minor's Code.

The Law on Judicial Careers regulates the income, terms of office, promotion, training, disciplining, and other activities of judges and magistrates and mandates a 6-month training course for all newly appointed judges. During the year, the Judicial Career Council reviewed the performance evaluations of 63 judges. The Council 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.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. From August 2002 until July, the Judicial Discipline Unit investigated 115 of 537 complaints of wrongdoing that it had received, with the result that 66 claims were found to be baseless, 25 judges were sanctioned, 22 were suspended, and 8 were sanctioned with the recommendation that they be removed.

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 between the PNC or the Public Ministry led to rivalries between these organizations, as well as the duplication of investigative efforts. The Attorney General and head of the Public Ministry stated that a lack of funding was the source of most of the Ministry's deficiencies. Only an estimated 3 percent

of approximately 250,000 cases filed with the Public Ministry annually were prosecuted. The Public Ministry's budget for the year was \$50 million (398 million quetzals).

The Government continued efforts to reform the judicial system. Fifteen 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, provided efficient public service. Clerk of Court offices streamlined case processing, increased transparency, improved customer service, and virtually eliminated corruption. An analogous system was inaugurated in Guatemala City in the Prosecutor's Office Case Intake Unit. At the Prosecutor's Office Victim's Unit in the capital, doctors and nurses were on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases (see Section 5), and similar units also operated in every department of the country.

There were no reports of political prisoners, although union leaders claimed that Rigoberto Duenas, a union leader, who was arrested on June 8 on suspicion of involvement in the Social Security Institute embezzlement scandal, was a political prisoner.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home, correspondence, and private documents; however, the authorities allegedly sometimes disregarded 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). 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 May 7, an appeals court overturned Valencia's 2002 conviction for the Myrna Mack murder (see Section 1.a.).

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment; the armed forces were able to recruit 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. During the riots of July 24 and 25, there were reports that teachers were required to participate in the pro-FRG demonstrations to keep their jobs.

#### *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 media were targets of attacks, threats, and intimidation.

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 and also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks.

Daily El Periodico publisher Jose Ruben Zamora reported that a dozen invaders entered his home on June 24 and held him and his family at gunpoint for several hours, warning that he had bothered someone "from above." When Zamora noticed that he was still being followed days after the incident, he sent his wife and children out of the country. Many other journalists reported receiving threats. Prensa Libre's Luis Barilla said his house was firebombed by a Molotov cocktail on July 4, days after he wrote an article on the conflict between massacre-victim family members and presidential candidate Rios Montt. Many freelance journalists also reported threats and minor assaults.

The media were a primary target of the violent demonstrations in support of Rios Montt on July 24. Hector Ramirez of Radio Sonora and television program Notisiete suffered a fatal heart attack as he was chased by a machete-wielding mob. Juan Carlos Torres, from El Periodico, was doused with gasoline and narrowly escaped being set on fire; Hector Estrada, from television program Guatevision, was hospitalized after a similar assault. Several television reporters had equipment smashed and were roughed-up by the crowd.

On October 26, ex-PACs in Huehuetenango Province abducted four journalists to protest delays in payment for their services during the internal conflict. They were released 51 hours later, when a government negotiating team agreed to a payment schedule.

The Government prepared public information programs that the radio and television stations were required to broadcast. On November 25, the President an-

nounced that he would transfer the Government's rights to its two national television channels to the Academy of Guatemalan Mayan Languages and to the Congress.

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. However, a new cable channel, Guatevision, began transmissions on March 20. Owned by Prensa Libre, it provided an alternative to the other stations and had a strong public affairs component. Civil society representatives, opposition candidates, and foreign diplomats appeared on many of its panel shows.

Investigations continued in the 2001 shooting death of radio journalist Mynor Alegria Almendaris, in Puerto Barrios, Izabal. In August, the court of Chiquimula denied the prosecutor's request for a warrant to arrest sitting congressman and former Puerto Barrios mayor David Pineda for his involvement in the killing. The case remained pending at year's end.

The Government did not restrict access to the Internet or 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 numerous protests by a wide variety of groups around the country to demonstrate on a wide variety of issues; however, on several occasions, demonstrations became violent. Police generally acted with restraint; however, there were some allegations of unnecessary use of force, or, at times, inaction. In January, the teachers unions organized a nationwide strike in which members blocked roads and airports, organized sit-ins at various ministries, and demanded wage increases and improved access to resources. The police acted with restraint and did not use force to impede the demonstrations. The strike ended in March.

The Constitution provides for freedom of association, and the Government generally respected it in practice. However, there were allegations that the Government interfered with political associations, particularly at the local level. There were reports that the ex-PAC payments required registry with the official party (see Section 1.a.).

*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 explicitly recognizes the separate legal status of the Catholic Church.

The Government did not subsidize religious groups directly. 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 was 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 charged that Mayan culture does not receive the official recognition it is due. The Government did not provide mechanisms for free access to ceremonial sites considered sacred within indigenous culture, nor did it provide for the preservation or protection of such ceremonial sites as archaeological preserves. Some indigenous groups considered the Government's use of sacred sites as revenue-generating tourist destinations to be an affront to their spiritual traditions.

On October 1, the Constitutional Court confirmed 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 ODHAG (see Section 1.a.).

For a more detailed discussion, see the 2003 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 the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised 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.

In the second-round runoff presidential election on December 28, Oscar Berger of the GANA coalition won a 4-year term with approximately 54 percent of the vote. In the period leading up to the elections, at least 29 opposition candidates were killed, and many incidents of violence occurred (see Section 1.a.). Despite some minor irregularities in the electoral registry, the OAS international observation mission categorized the elections as free and fair, with a 56 percent voter turnout in the first round and 49 percent in the runoff.

Voters elect the 158-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. Ten parties won seats in the legislature, led by the Great National Alliance (GAN) with 47 seats, followed by the FRG with 43 seats, the UNE with 32 seats, the National Advancement Party with 17 seats, the Unionist Party with 7 seats, the New Nation Alliance with 6 seats, the Democratic Union with 2 seats, the Guatemalan National Revolutionary Unity Party with 2 seats, and the Authentic Integral Development and Christian Democracy Parties with 1 seat each. Congress can and does act independently of the Executive.

There are no legal restrictions on the participation of women in the political process. Approximately 44 percent of the 5 million registered voters were women. In November, voters elected 14 women to the 158-member Congress. A woman, Zury Rios de Lopez, served as 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.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, but indigenous people still were 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 158 members of Congress, 18 were indigenous. There are 113 indigenous mayors in the country, out of 331 municipalities, including Quezaltenango, the second-largest city. There was one indigenous ambassador.

*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 investigated and reported freely on human rights issues; however, many NGOs and human rights workers received threats or were intimidated by unidentified persons. Senior government officials met with international human rights monitors; however, some government officials questioned the credibility of both domestic human rights workers and international monitors. Many human rights workers believed this public questioning emboldened those who threatened them. While many international human rights organizations and their workers did not enjoy formal legal status, they continued to operate openly.

Human Rights Ombudsman Sergio Morales, elected by Congress in 2002 for a 5-year term, 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, historically inadequate, was approximately \$5 million (40 million quetzals) for PDH's activities nationwide. Upon the expiration of the MINUGUA's mandate in 2004, the Human Rights Ombudsman's Office is to assume MINUGUA's human rights verification function.

The 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 Inter-American Court of Human Rights. During the year, COPREDEH completed part of the IACHR-ordered reparations in the Bamaca case by publishing the details of state responsibility in the press. COPREDEH also completed negotiations between the Government and civil society for the establishment of a National Reparations Plan (see Section 1). By year's end, COPREDEH implemented IACHR orders to provide police protection to 14 human rights activists, 2 political activists, 14 judges, 3 journalists, 15 forensic anthropologists, and 12 people carrying the AIDS virus.



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.). In August, U.N. Secretary General Kofi Annan reported to the General Assembly that "public security deteriorated, impunity persisted, and the climate of intimidation against human rights defenders, social activists, and journalists . . . continued." The cases of intimidation, harassment, and violence against human rights defenders, Annan reported, "drew heightened attention to the problem of clandestine groups believed responsible for many of these incidents."

On September 27, Eusebio Macario, a community organizer and founding member of the Council of Ethnic Communities (CERJ), was shot to death in Chichicastenango, Quiche. Macario had reportedly criticized the FRG's Chichicastenango mayoralty candidate for corruption. The Public Ministry Special Prosecutor for Crimes Against Human Rights Workers took up the case, and the investigation was pending at year's end.

There was intimidation of human rights workers, including anonymous telephoned or written threats, break-ins, and surveillance of workplaces, residences, and vehicular movements; however, MINUGUA indicated that the number of such incidents has declined since 2001. Prosecutors, judges, and witnesses in various human rights cases, notably in the Myrna Mack and Gerardi cases, 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. 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.

Throughout the year, individuals associated with forensic anthropology teams investigating mass graves from the armed conflict received specific and credible death threats. A majority of the staff of the FAFG received intimidating phone calls, were accosted and threatened by armed men, and reported that their homes were under surveillance. In August, the prosecutor investigating the threats discovered that a car monitoring the FAFG was registered to the EMP. An investigation into the car's presence continued at year's end.

The PDH received threats throughout the year. On August 26, the PDH's Department of Investigation was burglarized. Two laptop computers and documents were stolen. In the days following the break-in, the Public Ministry arrested four suspects. A trial remained pending at year's end.

On July 24, three armed men forced their way into the home of Norma Maldonado, a women's human rights and environmental activist working with Mama Maquin, a rural indigenous women's group. The intruders destroyed data that Maldonado had been working on with reference to the effects of development on rural indigenous development.

The Public Ministry completed the investigation of the April 2002 killing of Guillermo Ovalle, an accountant for the Rigoberta Menchu Foundation and nephew of its director. A trial was pending at year's end.

In April, human rights activist and Mayan priest Diego Xon was killed in Camancha, Chichicastenango, Quiche. Xon was reportedly vocal in his criticisms of payments to the ex-civilian patrollers in Quiche. The investigation of his killing continued at year's end.

The Public Ministry completed the investigation of the September 2002 killing of Manuel Garcia de la Cruz, a CONAVIGUA member from Joyabaj, Quiche. Five suspects were being held awaiting trial.

In January, Human Rights Ombudsman Sergio Morales, along with the National Movement for Human Rights, presented the Government with a proposal for a U.N.-OAS-Government led commission to investigate clandestine groups (CICIACS). The Government accepted the proposal. In March, Foreign Minister Edgar Gutierrez and Morales signed a memorandum of understanding outlining how the government and civil society would work together to facilitate the formation of the CICIACS. The agreement was scheduled to be submitted to the Congress for ratification in January 2004.

In April, the Attorney General named Thelma Pelaez de Lam as Special Prosecutor for crimes against human rights workers. Despite encouraging advances in the investigation of several paradigmatic cases, the office's work was hampered by constant threats and intimidation, as well as by a lack of cooperation from the police, whose staff comprises a majority of the suspects in the cases the Special Prosecutor is investigating (see Section 1.e.).

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 to strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its investigations but cited occasional iso-

lated incidents in which government officials or institutions had obstructed its efforts.

In August, U.N. Secretary General Kofi Annan reported to the U.N. General Assembly that the threats, harassment, and violence against human rights activists, judges, prosecutors, attorneys, witnesses, and forensic anthropologists "drew heightened attention to the problem of clandestine groups believed responsible for many of these incidents."

*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 was unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system (see Sections 1.c. and 1.e.).

During the year, there were at least five killings of male homosexual sex workers. There were no arrests made in any of the killings, and the police who arrived on the scene abused the victims' companions. There were no arrests in the 2000 killings of five male homosexual sex workers.

*Women.*—Violence against women, including domestic violence, remained common among all social classes, and there were multiple reports of women tortured, disappeared, and killed (see Sections 1.a. and 1.c.). The Law on Domestic Violence provides that the Prosecutor's Office, the national police, family courts, legal clinics, and the Human Rights Ombudsman's Office may receive complaints of domestic violence. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. The Prosecutor's Office reported receiving 4,580 complaints of family violence against women and children during the year; none of the cases came to trial. The PDH estimated that 90 percent of the cases went unreported.

The Law to Prevent and Sanction Intrafamily Violence requires the PNC to intervene in violent situations in the home. The press reported that in many cases the police did not respond to calls for help. The Politico-Civic Convergence of Women reported that officers who did arrive often chastised female victims for behavior that provoked 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 received 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, provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It also coordinated and promoted action by both government institutions and NGOs to prevent violence and discrimination against indigenous women; however, it lacked the human resources and logistical capacity to perform its functions on a national level. The Ombudsman's budget was \$278,000 (2.2 million quetzals), a slight increase over past years. Since 2002, the office has handled 2,420 cases, including labor conflicts, and domestic violence.

Sexual offenses and prostitution remained a problem. The Prosecutor's Office reported receiving 431 cases of rape and sexual assault between January and June. The Office of Attention to the Victim, a unit within the Public Ministry, reported receiving 4,058 cases of family violence between January and July.

The Penal Code does not define sexual assault as a crime. During the year, the Office of Attention to the Victim received 1,642 complaints of rape. Many observers believed that increases in reported rapes did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward 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.

Prostitution is not illegal; however, procuring 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 and minors, primarily for the purpose of prostitution, is illegal and was a growing problem (see Section 6.f.).

The Network for Non-violence Against Women reported that more than 220 women were killed, most by gunshot, during the year, compared with 244 in 2002. Between May 7 and August 22, the Human Rights Ombudsman's office investigated the torture and killing of 181 women; it attributed only 10 percent of the crimes

to gang activities and 80 percent to other organized crime. The Ombudsman's Office reported little cooperation from the police or Public Ministry in investigating these crimes.

The Constitution asserts the principle of gender equality; however, in practice women faced job discrimination and were less likely to win management positions. The PDH stated that women generally received significantly lower pay than men, in many cases one quarter to one-half the salary for the same work. Some women were subjected to pre-employment pregnancy tests. Women were employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More women than men were employed in the informal sector of the economy, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men.

More than 50 percent of urban girls and 81 percent of rural girls left school, and an estimated 70 percent of adult women have never received formal education. UNICEF's 2003 report indicated that the female adult literacy rate was 80 percent that of males.

The Secretariat for Women's Affairs advises the President 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 prioritized areas of critical need for women, such as access to health care and education, but, lacking resources, it focused primarily on developing inter-institutional cooperation with existing programs.

Approximately 400 women served in all branches of the military, representing 16 percent of the enlisted ranks and 3 percent of the officer ranks, and made up approximately 10 percent of the students in the country's military academy. Approximately 10 percent of police officers were women.

*Children.*—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors; however, the Government did not devote sufficient resources to ensure adequate educational and health services for children. Government spending on education and health declined: Approximately 1.6 percent of the country's gross domestic product was devoted to education and less than 1 percent to health.

The Constitution provides for compulsory education for all children up to the sixth grade. However, less than half the population actually received a primary education, and only 30 percent of students who began primary school completed it, with completion rates even lower in rural and indigenous areas. The average child received 2.2 years of education; however, among indigenous children, the average dropped to 1.3 years. The Ministry of Education attempted to improve these indicators by granting special scholarships to girls and working or orphaned children.

A 2002 report of the Center for National Economic Investigation (CIEN) stated that, despite the Government's efforts to increase primary school enrollments and graduations, dropout rates had increased; illiteracy rates among women remained unchanged; and a very low percentage of resources went to post-primary levels.

UNICEF's 2003 Report estimated under-5 mortality rate at 58 per 1,000 live births. 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. An estimated 1.3 million women and children did not have access to basic health services during the year. Boys and girls had equal access to medical care.

Child abuse, including abuse of street children, remained a serious problem (see Sections 1.c. and 6.f.). The Public Ministry reported 1,029 cases of child abuse during the year. Most victims were between the ages of 2 and 10. A Permanent Commission for Children and Youth investigated 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 provided shelter and assistance to children who were victims of abuse; however, these children sometimes were placed with other youths who had committed crimes (see Section 1.c.).

A 2002 Casa Alianza report 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 nightclubs in Guatemala City. Child prostitution was especially a problem in the capital and in the towns of Escuintla, Tecun Uman, and Coban. Child prostitution in towns along the borders with Mexico and El Salvador continued to increase. Child migrants who failed to cross the border into Mexico often remained in the country and resorted to prostitution to survive. Many children were also brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced the children into prostitution. Laws and protection programs for such

child migrants were weak or nonexistent, and those taken into custody were often treated poorly by authorities and deported.

Child labor was a problem. UNICEF estimated that 22 percent of all children worked (see Section 6.d.).

The internal conflict left approximately 200,000 orphans throughout the country. Approximately 10,000 children were members of street gangs. Credible estimates put the number of street children at 6,500 nationwide, approximately 4,000 of them concentrated in Guatemala City.

Between July 2002 and June, Casa Alianza reported 10 homicides, 14 forced disappearances, and 14 sexual abuse cases of street children. Most street children ran away from home after being abused. Criminals, reportedly including private security guards and corrupt police or military personnel, often recruited these children into thievery, prostitution, or drug rings. Private individuals, private security guards, and other street children committed most violence against street children.

The Government and a number of NGOs operated youth centers; however, the funds devoted to them were not sufficient to address the problem. The Government maintained one shelter each for girls and boys in Guatemala City. These shelters provided housing for the homeless and incarceration for juvenile offenders.

On July 18, the Congress passed a new Integral Protection Law for Minors, which provides for the creation of Minor's Courts to have jurisdiction over crimes committed by and against minors, establishes the individual rights of minors, and outlines the rights and mandates treatment of minors in detention (see Section 1.c.).

*Persons with Disabilities.*—The Constitution provides that the State should protect persons with disabilities; however, persons with physical disabilities suffered discrimination in education and employment practices, and few resources were devoted to combat this problem. In September, the First Lady, Evelyn Morataya de Portillo, estimated that 10 percent of the population suffered some type of disability. Persons with disabilities 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 principal health care provider for persons with mental illness, lacks: Basic supplies, equipment, hygienic living conditions, and adequate professional staffing. In 2002, the press reported that only 30 percent of children with disabilities received support from the Ministry of Education. The Education Ministry continued a public awareness program in public schools to overcome teachers' resistance to attendance by students with disabilities.

The Law for Protection of the Elderly and the Law on Attention to Disabled Persons mandate equal access to public facilities, prohibit discrimination based on disability, and provide other legal protections. They stipulate equal opportunity for persons with disabilities in health, education, work, recreation, sports, and cultural activities. The law 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 provides for equal educational opportunities, mandatory building access codes, and the right to equal pay. However, government efforts to implement the legislation were weak.

The National Council for the Disabled, composed of representatives of concerned government ministries and agencies, met regularly to discuss initiatives; however, no resources were devoted to the implementation of their recommendations.

*Indigenous People.*—The Constitution, recognizing that the country is composed of diverse ethnic groups, 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 remained largely outside the country's political, economic, social, and cultural mainstream. A 2000 U.N. report stated that 73 percent of indigenous persons lacked economic possibilities and had limited access to basic services. The U.N. Development Program (UNDP) estimated that 90 percent of the indigenous people were poor. While there was no single indicator of indigenous status, there were at least 22 separate Mayan ethnic groups, each with its own language. In addition, 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, were a separate minority group.

The majority of the provisions regarding indigenous rights were incomplete in the 2000–04 timetable for the implementation of the Peace Accords. Among the initiatives still pending were educational reforms that include bilingual and intercultural components, promotion of the use of indigenous languages, and the conservation and protection of ceremonial sites. In May, MINUGUA lamented the minimal advance-

ment in the implementation of the Accord on Indigenous Rights 7 years after it was signed.

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.

On August 20, the Labor Ministry created a Department of Indigenous People to investigate cases of discrimination and promote implementation of the International Labor Organization (ILO) Convention on the rights of indigenous workers. The Department had no separate budget and only two employees. In August, the Ministry of Labor and the Public Ministry reached an agreement on training labor inspectors and prosecutors on the rights of indigenous workers. On October 17, 45 public servants, indigenous group representatives, and members of political parties completed a 6-month diploma in indigenous rights. The course was an initiative of the Ministry of Labor in cooperation with the Public Administration Institute.

Rural indigenous people had limited educational opportunities and fewer employment opportunities. For this reason, indigenous men constituted a high percentage of the military's ranks. Many indigenous people were illiterate or did not speak Spanish; more than half of indigenous women were illiterate; and a disproportionate number of indigenous girls did not attend school. The Government 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 spoke an indigenous language. Nevertheless, only 22 percent of this population received bilingual instruction. Only 12 percent of all teachers were bilingual.

The 2002 Law Against Discrimination addressing discrimination due to gender, ethnicity, language, religion, and economic status was criticized by some indigenous groups because it did not provide a separate status for indigenous rights.

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; however, 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 were bilingual in Spanish and an indigenous language. However, in 561 tribunals around the country there were only 62 judges who spoke Mayan languages and 22 court interpreters. Only 9 percent of police officers were indigenous. Better efforts were made to assign these officers to towns where their language skills could be used, and approximately 75 percent of them worked in the geographic area of their particular linguistic competency.

Two groups worked to represent indigenous issues. In August, a national Congress of Mayan People decided to create the National Assembly of Representatives of the Mayan People, which started selecting representatives from 16 departments and entered into dialogue with the National Council of Mayan Peoples to unify positions on indigenous demands of the new Government.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for freedom of association and the right to form and join trade unions; however, in practice the Government did not enforce effectively labor laws to protect workers who exercised 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 was unionized. The Government did not control unions nor did it interfere with union activities. Reforms to the national Labor Code, enacted in 2001, which the ILO direct contact mission considered “a significant step forward in the application of Conventions 87 (freedom of association) and 98 (right to organize and bargain collectively),” defined the mission of the Labor Ministry as guaranteeing “the free exercise of union rights.” The reforms also permitted industrial or sectoral unions. Legal recognition of a new industrial union requires that the membership constitute one-half plus one of the workers in an industry. Labor activists considered this requirement a nearly insurmountable barrier to the formation of new industrial unions.

The law prohibits retribution for forming unions and for participating in trade union activities; in particular, 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. However, enforcement of these provisions was weak. Many employers routinely sought to circumvent Labor Code provisions to resist unionization. An ineffective legal system and inadequate penalties for violations hindered enforcement of the right to form unions and participate in trade union activities in the past and perpetuated the violence that workers faced if they attempted to exercise their rights.

The law accords initial jurisdiction over labor law violations to the Labor Ministry and sets forth procedures for processing complaints, making initial determinations, and fining violators. The Ministry of Labor may levy substantial fines for violations of labor rights. During the year, the Ministry imposed a total of 4,009 fines, amounting to \$1.6 million (12.3 million quetzals); however, the number of fines actually paid was 535, amounting to \$194 thousand (1.5 million quetzals). Individual fines were generally low because companies may challenge Ministry fines above \$641 (4,968 quetzals) in the labor courts. The labor inspection system remains inadequate and corrupt, despite continuing efforts at improvement. Low pay, the lack of a strong ethic of public service, and ineffective management prevented the Ministry from providing effective service.

Retaliation, including firing, intimidation, "blacklisting" and sometimes violence, by employers and others against workers who tried to exercise internationally recognized labor rights was common and usually went unsanctioned. For example, Labor Ministry officials believed that allegations of blacklisting of members of the union formerly representing construction workers at the San Jose coal-fired power plant, who were illegally fired by DYMEL Incorporated, were credible. The ILO's Committee on Freedom of Association continued to monitor approximately a dozen allegations of serious violence between 1995 and 2000 against individuals for unionizing activities that lacked credible investigations, prosecutions, or trials. A Special Prosecutor for Crimes Against Unionists and Journalists, who reviewed such allegations, accepted a number of cases during the year, and 47 remained under investigation at year's end. Only two suspects have been brought before a judge, and only one was detained; judges or the Prosecutor's Office found the remaining cases to be without merit. Unlike last year, there were no reported killings of union leaders.

The most common violation of freedom of association was the dismissal of workers for unionizing activity. Some workers who suffered illegal dismissal took their case to the labor courts and won injunctions of reinstatement. Appeals and re-appeals by the employers, along with legal ploys such as re-incorporation as a different entity, often prolonged proceedings for years. The labor courts generally did not dismiss frivolous appeals, nor were their decisions enforced. According to Labor Ministry officials, the labor courts vindicated the majority of workers' claims against employers. However, employers complied with the court decisions in only a small number of cases, creating a climate of impunity. Often employers were not disciplined for ignoring legally binding court orders.

Employees generally 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 all constrained the exercise of worker rights.

In June, authorities appealed a court injunction protecting Rosa Maria Gonzalez Gonzalez, who they suspect to be involved in the 2001 killing 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, continued; the Special Prosecutor re-interviewed key witnesses but had not asked for an arrest warrant by year's end.

Labor leaders reported death threats and other acts of intimidation. On April 25, Rolando Chacon Escobar, councilman of Nueva Concepcion, was arrested for the November 2002 killing 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 near Nueva Concepcion, Escuintla. At year's end, Chacon Escobar was in prison pending trial on corruption charges, and the investigation into the killings continued. Death threats that municipal union members in Chichicastenango reportedly received in 2002 ended after the mayor of Chichicastenango was arrested on corruption charges. The General Union of Guatemalan Workers (CGTG) reported a pattern of death threats received by union leaders pressing for payment of minimum wages on agricultural plantations. They also reported receiving death threats for advocating the innocence of jailed union leader

Rigoberto Duenas. On January 17, CGTG union member, Marco Alvaro Tzoc, was shot and injured for stealing produce by the owner of the "el Arco" plantation, where he worked. The owner, Julio Cesar Salazar Pivaral, was arrested, charged with attempted murder, and released on bail.

An active "solidarismo" (solidarity) movement claims to have approximately 170,000 members in approximately 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. The Government viewed 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 charged that management promoted solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. Representatives of most organized labor groups criticized 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.

During the year, the Labor Ministry granted legal status to 37 unions. There were 1,579 registered unions (509 in the public sector and 1,070 in the private sector), with approximately 120,000 members, or approximately 2.3 percent of the workforce. The registered unions were generally independent of government and political party domination.

On July 9, the two unions at the Choi Shin/Cimatextiles export assembly plants, which had suffered anti-union violence in 2001, reached a collective bargaining agreement with management, after the Ministry of Economy threatened to withdraw tax privileges if outstanding labor complaints were not resolved. The Government initiated similar proceedings against other factories with pending labor violations in September. The Ministry of Economy put export tax exemption privileges of 54 export-only companies under review in light of labor complaints pending with the Ministry of Labor.

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 were not enforced adequately. On October 27, a Korean-owned textile maquila (plant that assembles imported components for re-export) reinstated three workers fired on October 16 for attempting to form a union.

Despite efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts: 7 in the capital and 13 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 contributed 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 compounded the weakness of the labor courts.

The Ministry of Labor continued efforts to improve the labor inspection system by: increasing its rate of inspections, training and evaluating inspectors, dismissing some incompetent or corrupt inspectors, computerizing inspection reports, cooperating with an ILO study on inspection norms, and creating national and departmental consultative councils to discuss Labor Inspectorate operations.

The Ministry of Labor continued its educational campaign on worker rights, which included a campaign of radio spots and the provision of some educational materials in indigenous languages. The Ministry of Labor has seven regional offices to improve enforcement of the Labor Code outside the capital; regional staff includes labor inspectors and specialists in women and workplace issues, management-worker relations/conflict resolution, and child labor issues.

MINUGUA and the Human Rights Ombudsman's office of the Defender of Worker Rights took complaints related to violation of internationally recognized worker rights. The Human Rights Ombudsman's Office may investigate union complaints and issue a statement; however, the office has no enforcement powers beyond attempting to resolve the situation through publicity and persuasion.

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 limited the practice of collective bargaining. The prevailing business culture ignored labor contracts because, in practice, they were largely unenforceable due to the weak, cumbersome, and sometimes corrupt legal system. The Labor Code requires that one-half plus one of the union members must approve a collective bargaining agreement.

Other factors limiting the practice of collective bargaining included 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, 21 collective bargaining agreements were registered during the year. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law. According to the Labor Ministry, only 3.3 percent of the workforce had a contract legally registered with the ministry.

In January, a 2002 government decree prohibiting the executive branch from allowing any salary or other monetary benefits to increase under any collective bargaining agreement was withdrawn after it was challenged by labor groups and ruled unconstitutional by the Constitutional Court.

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). Despite the greatly increased penalties for defying court injunctions that were adopted in 2001, the Ministry of Labor's enforcement remained problematic. The Labor Ministry, and its corps of labor inspectors in particular, continued to suffer from a lack of respect from employers, inadequate resources, and corruption (see Section 6.a.).

During the year, there were 12,589 routine labor inspections and 4,602 inspections based on a specific complaint.

Workers have the right to strike; however, the very low level of unionization and procedural hurdles made legal strikes rare. The Labor Code requires approval of one-half plus one of a firm's workers 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 Labor Code empowers the President and his cabinet 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.

There were no legal strikes during the year, although teachers and labor groups in the banana, health, and other sectors held illegal or unofficial work stoppages.

Labor laws and regulations apply throughout the country, including the few export processing zones (EPZs). Maquilas operate under an EPZ-like regime, although they are not located in distinctly established areas. There are only two collective bargaining agreements (covering 1,300 workers) between employers and any of the more than 125,000 workers in the export zones and maquila sector. Unions' lack of success organizing workers in these zones is affected by employer intimidation and pressure.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, some women and minors were trafficked for the purpose of sexual exploitation (see Section 6.f.). There were reports that employers sometimes forced workers to work overtime, often without premium pay (see Section 6.e.). Forced or bonded labor by children generally did not occur; however, the ILO reported that children worked as domestics in private homes in "conditions of modern slavery," and, in November, there was a report of forced labor by two children (see Section 6.d.).

*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. A reform to the Labor Code submitted by the Executive to Congress in May to rescind the labor permit program and make all employment of minors under 14 illegal remained pending at year's end. However, the informal and agricultural sectors regularly employed younger children, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities. A March joint report of the ILO, UNICEF and the World Bank estimated that 23 per-



cent of minors under age 18 worked, up from 20 percent in 2000. The report estimated that 507,000 children age 7–14 years (20 percent of this age group) were engaged in work. Most minors worked at household chores, in subsistence agriculture, in family-run enterprises, and elsewhere in the informal economy.

The law prohibits minors from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and extra hours (the legal workday for persons younger than 14 is 6 hours; for persons 14 to 17 years of age it is 7 hours). The ILO/UNICEF/World Bank report found that, despite these protections, children worked on average 47 hours per week.

The ILO's International Program on the Elimination of Child Labor launched projects to combat child labor in the fireworks industry, in the production of gravel, in the growing of coffee and broccoli crops, in domestic service, and in the commercial sex industry. The Labor Ministry estimated that between 3,000 and 5,000 children were employed in the illegal cottage-based fireworks industry, approximately 10 percent of them in factories, while others, under the age of 14, typically worked at home on piecework taken in by their families; accidents occurred regularly in the fireworks industry. According to press reports an average of 25 persons per year, the majority minors, suffered burns and amputations from accidents in the fabrication of fireworks. On December 10, three persons (including a 17-year-old) died and six others (including a 10-year-old) suffered second and third degree burns, when a legally registered fireworks factory exploded in San Raymundo, Sacatepequez Province.

Laws governing the employment of minors were not enforced effectively, due to the weakness of the labor inspection and labor court systems. The Labor Ministry granted 119 work permits for minors under age 14, compared with 124 such approvals in 2002. Many children under the age of 14 worked without legal permission and were vulnerable to exploitation. Their illegal status made them ineligible to receive social benefits, social insurance, vacations, or severance pay, and they often earned salaries below the minimum wage.

A 2002 ILO report indicated that 937,530 child workers (38,878 under age 18) worked as domestics in private homes in "conditions of modern slavery." In the capital, three-quarters of the children worked 13 to 16 hours a day, and their average monthly salary was approximately \$51 (395 quetzals). Many of the domestic workers suffered psychological mistreatment, including sexual abuse.

On November 21, the press reported the February 9 rescue of two children from a neighborhood in Guatemala City where they were chained, presumably to prevent them from escaping conditions of forced labor.

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. The National Commission for the Elimination of Child Labor created in 2002 developed an operational plan to implement the 2000 National Plan to Eradicate Child Labor. In July, the Minister of Education issued regulations incorporating basic labor rights training into the secondary school curriculum.

*e. Acceptable Conditions of Work.*—Although the law sets minimum wages, non-compliance with minimum wage provisions in the rural and informal sectors was widespread. A 2001 government survey, the most recent available, noted that only 60 percent of the working population received the minimum wage or more. Advocacy groups, focused on rural sector issues, estimated 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 and working hour protection laws do not extend to domestic workers; however, in May, the President submitted a bill to Congress that would do so. It remained pending at year's end.

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 daily minimum wage was \$4.25 (33 quetzals) in agriculture and \$4.56 (35 quetzals) in commerce. The law requires an incentive bonus be added to this minimum wage for all hours worked, effectively raising the daily minimum wage to \$5.58 (43 quetzals) in agriculture and \$5.87 (45 quetzals) in commerce. In November, the President authorized a new minimum wage (effective January 1, 2004) that provided increases of 21 percent for agricultural workers and 16 percent for non-agricultural workers. For day shift workers, the standard 6-day workweek is 44 hours; for night shift workers, it is 36 hours; for swing shift workers, it is 42 hours. Time-and-a-half pay is required for overtime work.

The minimum wage was not sufficient to provide a decent standard of living for a worker and family. In its Human Development Report issued in September, the

UNDP estimated that 57 percent of the population live below the poverty line and 21.5 percent in extreme poverty. The Ministry of Labor conducts inspections to monitor compliance with minimum wage provisions; however, the Ministry of Labor lacked the resources to enforce the minimum wage law adequately.

An estimated 75 percent of workers were in the informal sector and were therefore completely without labor protections. Only 24.6 percent of workers were covered by the National Social Security System in 2001, according to the Labor Ministry.

The legal workday is 8 hours and the workweek is 44 hours; a tradition of longer hours remained in place in certain sectors. These limits do not apply to domestic workers; a reform pending in Congress would apply these conditions to domestic workers. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charged that employers sometimes forced workers to work overtime, often without premium pay. Labor inspectors reported 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 were inadequate and enforcement remained weak. During the year, 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 provided training courses for labor inspectors in health and safety standards and gave such training priority. In December, the Ministry of Labor hosted a seminar with the Chamber of Construction Industries and unions to promote formation of health and safety workplace committees, an initiative included in the 2002 National Plan for Occupational Health and Safety.

When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not 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 were willing to jeopardize their jobs by complaining about unsafe working conditions.

A 2002 Human Rights Watch (HRW) report alleged that women workers, particularly in the domestic and maquila for-export manufacturing sector, suffered discrimination and sexual harassment. In May, the President proposed legislation to criminalize sexual harassment at work; the proposal remained pending at year's end. 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. An executive decree exempts domestic workers from the Labor Code provision that all workers have the right to the minimum wage.

The HRW 2002 report alleged that maquilas, which employed approximately 100,000 women, often forced women to reveal whether they are pregnant as a condition of employment.

*f. Trafficking in Persons.*—The law specifically prohibits trafficking and smuggling of persons; however, trafficking in women and children was a problem.

Trafficking in persons for the purpose of practicing prostitution is punishable by 1–3 years' imprisonment and a fine between \$335 and \$2,000 (2,500 and 15,000 quetzals); the fine for procuring minors is between \$470 (3,500 and 13,000 quetzals); at year's end, legislation was pending in Congress to increase these sanctions. The Government investigated trafficking cases and reported that it had initiated 26 prosecutions for trafficking between January 2002 and March, and at least two traffickers were imprisoned as a result of prosecution during the year. Most victims failed to press charges due to a cumbersome judicial system and fear of reprisal or deportation. Some prison sentences for traffickers are commutable to fines.

The Defense of Children's Rights unit in the Human Rights Ombudsman's Office and the newly created Minor Victims Section of the Prosecutor's Office investigate cases of trafficking.

NGOs and the press credibly alleged that some Immigration Service officers accepted bribes in return for allowing traffickers to bring children into the country for purposes of sexual exploitation. The Directorate of Migration reported that there were 80 dismissals for corruption and 46 pending disciplinary procedures, compared with 126 dismissals and 86 disciplinary procedures in 2002.

The country was a source and transit point for women and children trafficked for the purpose of sexual exploitation. There was also internal trafficking, and, in some cases, the country was a destination for trafficked persons who came mainly from

other Central American countries and Ecuador. Victims trafficked to Guatemala were usually young women or minors who were trafficked for sexual exploitation and were placed in poor surroundings and paid low salaries. The most common “contracting places” are along the borders.

The country was a significant transit and source country for alien smuggling, from neighboring Central American countries and from Ecuador, China, Taiwan, and South Asia. Some aliens were trafficked to the United States.

Those trafficked from the country for sexual exploitation were usually minors, both boys and girls, from poor families. The traffickers often approached these individuals and offered them lucrative jobs, which would allow them to make regular remittances back to their families. The approaches included promises of economic rewards, jobs in cafeterias or beauty parlors, or jobs in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations. Traffickers also used force, coercion, fraud, and deception.

Sexual exploitation of children, including child prostitution and the trafficking of children for purposes of prostitution, was a growing problem (see Section 5).

The Government assisted some victims of trafficking by providing shelters for children under protection by court order. Victims were not treated as criminals, although some were deported.

The Government conducted anti-trafficking and anti-smuggling public awareness campaigns. NGOs that focus on women and children’s rights often helped victims of trafficking and worked to educate the population about the dangers of trafficking. In October, UNICEF started a public relations campaign to warn Central Americans about the risks of exploitation by traffickers, particularly to alert parents to the dangers faced by unaccompanied minors attempting to migrate illegally to the United States. The campaign consisted of radio spots and videos shown on border-crossing buses.

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## 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 the influence of the executive branch.

The Guyana Defence Force (GDF) is a professional military responsible for national defense, internal security, and emergency response. The Guyana Police Force (GPF), which includes a Target Special Squad (TSS) that has some paramilitary training, has the authority to make arrests and is responsible for maintaining law and order throughout the country. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy 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 1.5 percent during the year, compared with 1.1 percent in 2002. The latest (1999) U.N. Development Program (UNDP) 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 inefficiency of the 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.

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, police continued to commit unlawful killings. The Guyana Human Rights Association (GHRA), a nongovernmental organization (NGO), reported that the security forces killed 39 civilians during the year, compared with 28 in 2002. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Thirteen of the killings occurred during joint GPF/GDF operations to counter the rampant criminal activities of bandits centered in the village of Buxton. Public investigations rarely were conducted into such killings; in general, police abuses were committed with impunity. The Constitution broadly defines justifiable use of lethal force.

On January 18, police shot and killed Charles Hinckson and Marlon Wilson in a bathroom stall after they reportedly committed a robbery. The independent Stabroek News reported that the men received multiple gunshot wounds to the chest, face, and lower extremities, and that police recovered a cutlass and a .32 caliber gun.

On January 29, police shot and killed Errol Immanuel. According to Stabroek News, Immanuel, an itinerant vendor, was sitting with a friend around 8:00 p.m. when a police van stopped, and the policemen confronted him. According to eyewitnesses, Immanuel immediately raised his hands in the air, but one of the police officers fired two shots directly at him. The other man reportedly was arrested, tied to a fence, but subsequently released when reinforcements arrived. According to a GPF press release, Immanuel was killed in a confrontation with police after he allegedly attempted to rob someone at knife-point.

On March 1, a police patrol fired on a car carrying five teenagers, killing 18-year-old university student Yohance Douglas and injuring Ronson Grey and O'Neil King. Mass protests followed Douglas' killing, and the incident provoked allegations of racial profiling and indiscriminate use of force by the police. A preliminary inquiry was conducted before the Chief Magistrate, and the authorities charged two police officers with murder.

On June 4, a joint GPF/GDF force killed Romel Reman, Akeem Hack, Daniel James, Sean Norton, H. Glasgow, and three other men during an operation in Buxton. The police were looking for Reman and described Hack as the "mastermind" behind the Buxton-based crime wave. A GDF release stated that during the operation, bandits had opened fire on police while they were trying to escape from a building. Police found a large cache of arms and other items, including Bushnell night-vision binoculars. The GHRA questioned the credibility of the official reports, noting that all suspects died, with none injured, no surrenders, and no arrests.

On September 4, a policeman and a civilian accomplice beat to death Albert Hopkinson when he resisted arrest. Police detectives were immediately dispatched to the rural village where the incident took place, and the man's body was flown to Georgetown for an autopsy, which showed signs of strangulation and a fractured skull. The policeman and the civilian were taken into custody; a preliminary inquiry had not concluded at year's end.

The crime wave that began in 2002 continued into the year, and law enforcement officers continued to be targets of premeditated, ambush-style murders. In May, joint GPF/GDF cordon and search patrols were initiated in the village of Buxton, a well-known criminal safe-haven. On the basis of intelligence gathered in the course of these patrols, police killed several alleged bandits. Following the police action, killings of police ceased, and the violent crime rate declined for several months, before rising again toward year's end.

There were no new developments in most of the killings by police in previous years, including the police shootings of Wesley Hendricks, Tshaka Blair, Mark Crawford, Albetha Fufe, Kwame Pindleton, Leroy Lowe, Dexter Dubisette, and Shawn Welcome in 2002.

During the year, there were occasional reports of vigilante action taken against supposed criminals by unknown parties, who possibly included off-duty or former police officers. Several murders reportedly were attributed to this group, popularly referred to as the "Phantom Squad."

*b. Disappearance.*—There were no reports of politically motivated disappearances. During the first 4 months of the year, a trend towards increasing incidence of kidnappings for ransom continued. Most cases involved local businessmen, but some

foreigners were also kidnapped for ransom. Following the joint GPF/GDF operations in Buxton and elsewhere, kidnappings declined by 80 percent.

*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) received 161 complaints through September (compared with 98 for the same period in 2002); it completed investigations of 56 cases. Two cases were referred to the Criminal Investigation Authority for murder proceedings. The Office of Professional Responsibility (OPR) also investigated complaints against police. The OPR did not release any information on how many cases it received during the year, how many it completed action on, or how many were awaiting decisions by the Department of Public Prosecutions (DPP) on whether to prosecute (see Section 1.d.).

Many legal 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. Fear of reprisals also limited citizen reporting of police abuses.

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 1,250 inmates in the 5 facilities in the system. Nearly half of these were estimated to be in the Camp Street Prison. 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. 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. The Guyana Prison Service reported that the department was implementing a 10-year (2001–11) strategic plan to modernize the prison system, with an emphasis on making prisons safer for inmates and officers, and implementing new rehabilitation programs.

Although the Government made efforts to address the recommendations made by a United Kingdom Prison Reform Team following the team’s 18-month review of the Prison Service, progress was hampered by a lack of resources. The failure to appoint a Judicial Service Commission also impeded progress on reform implementation (see Section 1.e.).

The GHRA reported no deaths in prison during the year attributed to overcrowding. To reduce overcrowding, the GHRA called on the judiciary to consider alternative sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. The GHRA did report that the reduction in the judicial backlog had resulted in reduced prison crowding (see Section 1.d.). The Parole Board continued to play a more active role, but was reluctant to release prisoners due to insufficient post-release 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 were normally inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates 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 2 years, waiting for the overburdened judicial system to act on their cases.

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. The GHRA urged that female inmates’ responsibility for children be recognized in terms of length of sentence and facilities for family contact.

Police continued to place juvenile offenders in a fairly adequate separate facility; however, female juvenile offenders were held with adult prisoners.

Pretrial detainees were held separately from convicted prisoners. Some special watch/high profile pretrial detainees were kept in security divisions also occupied by convicted prisoners.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities.

*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.

The GPF is a centralized, military-style organization. There are seven regional districts, but all criminal investigations operate out of headquarters in Georgetown. The force includes specialized units, such as the Tactical Services Unit and the Quick Reaction Group, some of which had no clearly defined mandate. The Special Constabulary receives the same training as the regular police but focuses mainly on guard duty for Cabinet ministers and certain government facilities. During the year, the GHRA conducted general human rights training programs for the GPF and the Prison Service.

The PCA was composed of five members who investigated complaints against police officers. The law provides for the independence of the PCA; however, an appointment system drawing heavily from retired judges fostered a reluctance to take controversial or decisive action. A lack of adequate powers for independent investigation limited the effectiveness of the PCA. The OPR also investigated complaints against the police (see Section 1.c.).

Poor training, poor equipment, and poor leadership severely limited the effectiveness of the GPF. Public confidence and cooperation with the police was extremely low. The police appeared completely incapable of effectively addressing an unprecedented violent crime wave, which included multiple deliberate murders of police officers. In addition, there were reports of corruption in the police and a lack of police accountability. Even when police officers 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.

In August, the National Assembly established a Disciplined Forces Commission to review the operations of the security services. The Commission gave priority to an investigation of the operations of the Police Force and submitted an interim report (covering the police) of its findings and recommendations to the Assembly in December. Commission hearings were held publicly, and a wide range of organizations and individuals came forward to testify.

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, and this was generally observed in practice. Bail was generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and are required to remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remained a problem. Since implementing initiatives contained in the Chancellor's Committee on Reform of the Criminal Justice System, however, the courts have reduced the backlog of cases, according to the GHRA. The GHRA estimated that prison figures have fallen approximately 30 percent with the main contributing factor being the reduced backlog of prisoners on remand.

The Government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host held on charges of treason, considered him to be a political detainee (see Section 2.a.).

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

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and for the most part this was the case. However, some law enforcement officials and prominent lawyers questioned that independence and accused the Government of occasional judicial intervention in civil cases involving judgments against the Government.

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 deal with both criminal and civil matters, and specially trained police officers serve as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecu-

tion is statutorily independent and can 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 and inefficiency characterized the judicial process. 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.

In 2001, the Constitution was amended to place the authority to appoint judges and determine tenure with the Judicial Service Commission (JSC). The JSC has the 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 allow the President, on the advice of the JSC, to make temporary appointments of judges to sit in magistrate courts and the High Court. At year's end, a new JSC had yet to be formed to replace the one whose term expired at the end of 2001.

Due to the continued 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. Despite progress in the dialog between the governing PPP/C and opposition Peoples National Congress/Reform (PNC/R) parties, activation of the service commissions was held up by disagreement over their composition. On December 30, the Government formed the Public Service Commission, clearing the way for establishment of the Police Service Commission.

Defendants are granted public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are 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 reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking was a problem, and in connection with the Buxton-based crime wave.

*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, there were complaints of interference in the electronic media. 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. Throughout the year, however, the Chronicle typically displayed a clear anti-opposition bias.

Talk show host Mark Benschop, arrested in 2002 on charges of treason for his role in the July 2002 storming of the Presidential Office Complex, remained in jail. The preliminary inquiry found that there was sufficient evidence for indictable charges to be brought, and the case awaited action in an upcoming High Court session. It was not clear when the case may come up, as there was a long backlog of

pending cases before the court. Political activist Phillip Bynoe, who was charged together with Benschop, remained at large.

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 criticize the Government for its failure to approve 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.

In late December 2002, on the recommendation of the Advisory Broadcasting Committee, the Government temporarily suspended the licenses of two television broadcasters, HBTV and CNS. In July, HBTV again had its license temporarily suspended. In each case the suspensions were in response to what was considered irresponsible broadcasting by the stations. The GHRA stated that although the recommendations to suspend were justified, it should have been done through judicial rather than executive action.

The legal and regulatory environment of the broadcast sector is weak and has been widely criticized for its inability to control frequently irresponsible independent television broadcasters. In August, a new draft broadcast law was introduced in the National Assembly, but it was returned to the inter-party committee for redrafting, which was not completed by 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 freedom of assembly, and the Government generally respected this right in practice.

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 it is believed that the meeting 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.

In March, large rallies and marches took place to protest the shooting of Yohance Douglas and Ronson Grey (see Section 1.a.). The demonstrations were peaceful and generally faced no interference.

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 2003 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. In practice, the Government provided protection against refoulement but did not routinely grant refugee status or asylum. Efforts by the Ministry of Home Affairs and the Cuban Government to forcibly repatriate to Cuba a Cuban national married to a Guyanese citizen have for over a year been impeded by legal challenges brought by the Cuban.

### *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. There is a multiparty political system based on proportional representation. Voters elect 25 of the 65 deputies from regional constituencies; the remaining 40 seats are filled proportionally from na-



tional slates of nominees chosen by the parties from different sectors of society. Any citizen 18 years or older may register to vote. Citizens are free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provides only a limited check on the executive's power.

Voters indirectly elect the President to a 5-year term of office. A party's presidential candidate must be announced in advance of the election. The party that wins the most votes for Parliament wins the presidency. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. A maximum of four ministers may be named who are not elected Members of Parliament.

In March 2001, citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the PNC/R party. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. The opposition called for the courts to declare the election unconstitutional and illegal, which delayed Jagdeo's swearing in until later that month. An extensive audit of the 2001 election led by the Institute for Democracy and Electoral Assistance found that despite several procedural errors and system failures, there was no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition alleged.

Society is racially divided, and the political party structure reflected the polarization of the main ethnic groups. The two major parties (the PPP/C and the PNC/R) 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 Constitution requires 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*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The GHRA was the most active local human rights group and issued periodic press releases and published an annual report on human rights. Trade unions, professional organizations, various ethnic groups, and churches participated in the GHRA. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

A Human Rights Commission (HRC), mandated by the Constitutional Reform Commission, is to be comprised of a Chairperson and the four chairpersons of the Women's, Children's, Indigenous, and Ethnic Relations commissions. At year's end, only the Ethnic Relations Commission had been activated, preventing establishment of the HRC. The GHRA complained about the lack of HRC 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.

Fierce opposition from diverse religious groups prevented the passage of a constitutional amendment to prohibit discrimination on the basis of sexual orientation.

Persons living with HIV/AIDS encountered societal discrimination. They faced derogatory comments, the refusal of some mini-bus drivers to pick them up, and other types of stigma-related discrimination. There were anecdotal reports of employers releasing HIV-positive employees but no evidence of official discrimination against persons with HIV/AIDS.

*Women.*—Violence against women, including domestic violence, was widespread, and NGOs reported that domestic violence crossed racial and socio-economic 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. Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, handled 308 cases of abuse, including child, spousal, nonspousal, and other domestic abuse between January and September. Of these, 227 involved spousal abuse, 98 percent of which was directed against women.

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 had been made to the Women's Affairs Bureau.

Rape, particularly of girls and young women, was a serious problem but was infrequently reported or prosecuted. While more victims reported these crimes to the authorities than previously, there still was a social stigma applied to the victim for doing so.

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 UNDP, sought through education and training to facilitate greater participation by women in government and the private sector.

On July 24, the National Assembly amended the Constitution to place emphasis on fundamental rights at that level. The amendment clearly spells out a range of criteria on the basis of which persons cannot be discriminated against, including gender.

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.).

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were unreported. Reports of physical and sexual abuse of children were common. 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 numerous children under the age of 5 who died each year; these deaths were usually 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, much of which resulted from the annual emigration of 1 to 2 percent of the adult population, who often left children behind.

The Government has reiterated its position that corporal punishment is acceptable. The Government's report to the U.N. Committee on the Rights of the Child refers to "a parent's right to chastise." Anecdotal 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. The Ministry of Education instituted a program intended to phase out corporal punishment in schools, but it had not been fully implemented by year's end.

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 and obscured by cultural norms.

*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 for persons with disabilities to be employed outside their homes. A council for persons with disabilities functioned throughout the year. There were several special schools and training centers for persons with disabilities, but the facilities lacked trained staff and were in disrepair.

*Indigenous People.*—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 constitutes 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, but these provisions were not enforced. Both Amerindian individuals and groups remained free to criticize the Government. In 2002 and during the year, the Government, in collaboration with Amerindian NGOs and community leaders, carried out a series of consultations with Amerindian communities to receive recommendations for a review of the Amerindian Act. This process had a substantive response from the communities, and the resulting reports were to be incorporated into formal recommendations to the Cabinet. At year's end, the process had not been completed, and no draft had been prepared for a new act.

The Government continued to maintain 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. Under existing legislation, Amerindian rights to land are limited, and legal titles officially granted can be taken away in at least five ways. The demarcation process lacks transparency and has itself been a source of contention, with Amerindian communities claiming that their input has not been given appropriate consideration. For the Amerindian population, the land question constituted a major issue. Amerindians complained that the Government allocated land to other interests without proper consultations with the communities. Whether for concessions for environmentally damaging mining or logging interests or environmentally protected reserves, the Amerindian communities often viewed the allocations as illegitimate takings of "their" lands.

*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/C and the largely Afro-Guyanese PNC/R engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and security forces continued to be overwhelmingly staffed by Afro-Guyanese. Recruitment for the uniformed services operated on an open basis, with no preference or special effort to attract applicants from any particular group. There were generally few Indo-Guyanese applicants, since most qualified Indo-Guyanese candidates opted for a business or professional career over military, police, or public service.

#### *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. However, the Constitution also specifically bars GPF members from unionizing or associating with any other established union.

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. During the year, the Trade Unions Recognition Board, created by this law, issued 30 certifications and denied 4. The denied applications failed to meet the required threshold of 40 percent employee support. The Government pro-

moted new union groupings as alternatives to established unions that it believed were dominated by the opposition. Nevertheless, all the new certifications were for existing unions representing previously uncertified enterprises.

Approximately 32 percent of the work force was unionized. Most union members worked in the public sector and in state-owned enterprises. There is no law prohibiting anti-union discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the Government maintained a generally pro-union stance.

Organized labor freely associated in the major national federation, the Guyana Trades Union Congress (GTUC), which was composed of 22 unions. There remained 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.

Unions and their federations freely maintained relations with recognized international trade union and professional groups.

*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 certified all collective bargaining agreements, and there have never been reports that it refused to do so. Individual unions directly negotiate collective bargaining status. 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 provide 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 are 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 where interruption would endanger life, personal safety, or health. There was no law prohibiting retaliation against strikers, but this principle was always 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. Budgetary limitations have led the Government to resist recourse to arbitration in an ongoing wage dispute with the Guyana Public Service Union.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor; however, there were reports that such practices occurred (see Section 6.f.). The Government prohibited forced or bonded labor by children and generally enforced this prohibition effectively, with the exception of child prostitution.

*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; 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. According to UNICEF, 19 percent of children between the ages of 5 and 14 were considered to be involved in labor activities.

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 a civil service arbitration ruling in 1999, the minimum public sector wage increased to \$98 (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, but if the initial contract stipulated a 48-hour workweek, then the overtime rate applied only for hours worked in excess of 48. 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 continued to conduct limited outreach to business in an effort to promote HIV/AIDS awareness and provide information on related health issues. The Occupational Health and Safety Division of the Ministry of Labor is 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 provide adequate protection for workers who use chemical substances 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 were some reports of women being lured into prostitution through false promises of employment, as well as reports of child prostitution by teenagers in cities and in remote gold mining areas in Amerindian communities.

There were also occasional reports of smuggling of persons of Chinese and South Asian origin through Guyana for illegal immigration to the United States, although it is not known if the smuggling involved any force, fraud, or coercion. Persons caught 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.

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## 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 opposition parties boycotted the 2000 presidential elections, in which Jean-Bertrand Aristide was reelected with extremely low voter turnout. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In September 2002, the Organization of American States (OAS) adopted Resolution 822 as a catalyst for resolving the political impasse. Included in the resolution was a provision calling for a legitimate Provisional Electoral Council (CEP), which was to be charged with planning local, municipal, and legislative elections during the year; however, the elections were never held. The 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). The HNP is officially an autonomous civilian institution; however, authorities did not maintain effective control of the security forces, and HNP officials at all levels were implicated in corruption and narcotics trafficking. Partisan 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 (CIMOs) serving Port-au-Prince and the Western department; crowd control units (UDMOs) serving each of the remaining eight departments; Special Brigades (BS) attached to certain commissariats; and a small Coast Guard unit. Police "attaches" became increasingly prevalent throughout the country and particularly in certain commissariats. The large and well-funded Presidential Security Unit, officially part of the HNP, had its own budget and remained administratively and functionally independent. Civilian deaths and serious injuries resulted from the inability of HNP units to maintain order. Members of the security forces committed human rights abuses during the year.

The country has a market-based economy and state-controlled utilities, and its economic stagnation continued during the year due to the continuing political crisis and the petroleum price shocks experienced in the second quarter. A small elite controlled much of the country's wealth. 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 from Haitians living overseas, estimated at \$931 million in 2002, were a growing revenue source. Textiles accounted for approximately 80 percent of recorded exports; assembled goods, leather goods, agricultural products, and handicrafts also provided limited export revenue. The Haitian Institute for Statistics calculated real GDP growth of 0.5 percent for the fiscal year, compared with negative growth of 0.9 percent for fiscal year 2002. Inflation was 42.5 percent for the fiscal year, compared with 10.7 percent for fiscal year 2002, largely reflecting the adjustment in fuel prices to world market rates and the decline in the value of the gourde. By year's end, inflation had subsided to an annualized rate in the low teens.

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 and threats to journalists and political dissenters by members of Popular Organizations (OPs) and by supporters of the President's party, Fanmi Lavalas (FL), increased. Prison conditions remained 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 were largely free and often critical of the Government; however, most journalists practiced some form of self-censorship. Child abuse, violence, and societal discrimination against women remained problems. Internal trafficking of children and child domestic labor remained a problem; however, the Government increased its efforts to address the issue.

#### 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 credible reports of extrajudicial killings by members of the HNP, municipal government officials, and civilian attaches (see Section 1.d.) associated with HNP commissariats.

Individuals involved in the State University protest movement that began in August 2002 continued to be victims of violence and human rights violations. On January 7, assailants shot and killed Eric Pierre, a 27-year-old medical student, while leaving the Faculty of Medicine building. The authorities did not arrest anyone in connection with his death, despite witnesses' allegations that the attackers left the scene in two vehicles, one with official license plates and the other with the state telephone company logo on the side.

On January 8, police shot and killed an anti-government demonstrator as they were breaking up a demonstration in Gonaives. Jean-Dady Simeon, HNP spokesperson, claimed that the man was already dead when police intervened (see Section 2.b.).

On January 27, armed men shot and killed 17-year-old John Peter Ancy Oleus in Carrefour under orders from the wife of the Police Commissioner of Jacmel, Mrs. Cadet. As John Peter and Cadet were arguing over the Oleus family's garbage disposal near her home, Cadet summoned six armed men, one of whom shot and killed Oleus as he ran to lock the front door of his house to protect his sisters inside. The authorities arrested Cadet soon after the crime was committed, but State Prosecutor Josue Pierre Louis released her the following day. Louis claimed that he had to follow the "hierarchy of respect," and that he was simply following orders from the Justice Minister. At year's end, no one had been held responsible for Oleus' death.

On February 4, a group of armed men shot and killed Ronuald Cadet, another student involved in State University demonstrations who had been in hiding since November 2002. This case, remained unsolved at year's end.

On March 27, in Petit-Goave, a police bullet grazed 21-year-old Ginette Pierre, who was believed to be the daughter of a Convergence leader whom the police planned to arrest. After she fell to the ground, the officers put their car in reverse and ran over the woman's head, killing her instantly. The Government provided funds for her wake and funeral, but took no action against the police officers responsible for her death.

On May 18, a civilian attache from the Commissariat in Hinche killed Josue Telusme. On July 8, attaches from Delmas 33 Commissariat riding in a HNP vehicle killed Leon Regois and discarded his body at the State University Hospital.

In October, Municipal Commissaire for Hinche Neguppe Simon shot and killed a woman who accidentally struck his vehicle with a rock during a domestic dispute. Following the incident, Simon disappeared, but was later arrested, then inexplicably

released from jail while pending trial in December and was promoted into higher ranks of the HNP leadership.

On October 21, police in Gonaives broke up an anti-Aristide march by the civil society coalition group Union Citoyenne. Police arrested several opposition members participating in the march. Police, in concert with pro-Lavalas "chimeres" (thugs) threw rocks and bottles, preventing the demonstration from taking place; one person was shot and killed and several others were injured.

Sparked by the death of Cannibal Army head Amiot "Cubain" Metayer (see Sections 1.b. and 3), several weeks of intense violence between police and Cannibal Army members were brought to a climax in Gonaives from October 26 to 28. On October 26, Cannibal Army members attacked the home of the Government's representative in Gonaives, Ketlin Telemaque, and burned one of the mayor's vehicles as police responded in kind. Following an attack on the main police commissariat, a gun battle between the police and gang members led to the death of a 12-year-old girl and the injuring of the Departmental Police Director.

From October 27 to 28, police and civilian chimeres mounted a major offensive on the gang-controlled section of Raboteau, Gonaives. While attempting to locate and arrest Cannibal Army members, police burned 10 homes in Raboteau, arrested area residents, and slaughtered livestock. Police efforts were unsuccessful, as the operation only netted civilians not involved with the Cannibal Army. During the siege, a newborn baby was burned to death, a woman was killed, and two other civilians were shot and injured. Reports estimated that there were as many as 50 dead and 80 injured civilians in Gonaives from September through December due to the continued violence.

In May, following a hearing before the Court of Appeals, Deputy Jocelyn Saint Louis of Saint Raphael, who was arrested for his alleged role in the January 2002 murder of mayor Sernand Severe, was released.

In December 2002, armed men dressed in black identified as HNP took three brothers, Angelot, Andy Philippe, and Vladimir Sanon, from their home in Carrefour in Port-au-Prince (see Section 1.c.). Later that day their bodies were found with gunshot wounds and taken to the city morgue. The boys had previously protested the police robbery and shooting of their friend, Marcellus Bongue. The authorities had not arrested anybody, and no examining judge had questioned any of the four policemen whom eyewitnesses identified as the last persons seen with the brothers. The police officers and the civilian attache from the Carrefour Commissariat suspected in the killing of the three brothers had not been brought to justice and were still working in that commissariat at year's end.

There was no progress in several other killings that occurred during 2002, including those of the three youths from Cite Soleil, a farmer in the town of Hinche, and four persons killed in an attack on the Las Cahobas jail.

In September 2002, an investigating judge indicted 10 persons in connection with the 2001 killing of journalist Brignol Lindor; however, he did not indict Petit Goave deputy mayor Duby Bony, who allegedly incited the killing when he said Lindor should be met with "zero tolerance" (a code word for officially sanctioned killings). Out of 27 warrants issued, the authorities arrested only 3 individuals in connection with Lindor's death. Judge Fritzner Duclair determined that the mayor's call did not incite the killing and failed to include the mayor or other local government officials who publicly called for retribution against Lindor (see Section 2.a.). By the end of January, only one person, Masee Zephir, remained in prison awaiting trial.

On March 24, almost 3 years after the killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, Judge Bernard Sainvil issued the final report on his investigation of the journalist's death. The report, criticized by the human rights community for its failure to identify the true authors of the crime, widely suspected to be high-ranking government officials, implicated six men: Dymsey Milien, alias "Tilou," for the actual murder, and five others who have already been in jail for more than 2 years as accomplices. Although Senator Dany Toussaint implicated former deputy mayor of Port-au-Prince Harold Severe during Toussaint's interrogation in January, in the final report, Severe was neither cleared nor implicated in Dominique's death. In August, Judge Jean Bien-Aime released three of the men incarcerated for the crime: Freud Junior Desmarates, Ralph Joseph, and Ralph Leger.

On January 27, the HNP took into custody Herbert Valmond and Carl Dorelien, both former FAd'H colonels returned to the country as criminal deportees. They were turned over to a special police unit who took them to the national penitentiary, where they remained at year's end. On January 29, Justice Minister Calixte Delatour announced that the two would be serving life sentences. In 2000, a criminal court in Gonaives had convicted Valmond and Dorelien in absentia, along with

35 former military leaders, for premeditated homicide in connection with the 1994 Raboteau massacre.

Vigilante killings are a long established practice in the country, and 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.

*b. Disappearance.*—There were credible reports of politically motivated disappearances; however, there were fewer such reports than in the previous year.

Attaches from Delmas 33 police station arrested Junior Jean and Mankes Anelus in front of their neighbors in June. The pair has since disappeared.

On July 15, persons believed to be attaches from the Cap-Haitien Commissariat kidnapped Pierre Franklin Julien, father of Citizen's Initiative founder Denis Julien, and held him for ransom.

Ordonel Paul, a presidential palace employee and widely believed to be the man who betrayed Cannibal Army leader Amiot Metayer, was last seen with Metayer on September 21 (see Section 3).

There were no further developments in the cases of disappearances reported in 2002.

*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. 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, belts, and "kalot marassa"—a severe boxing of the ears—were the most common form of abuse. Persons who reported such abuse often had visible injuries consistent with the alleged mistreatment. Mistreatment also took the form of withholding medical treatment from injured jail inmates.

A police officer from the Commissariat in Hinche shot Joseline Desroses in the mouth after she refused his sexual advances.

On July 14, the Brigade for Research and Intervention (BRI) arrested opposition militant Judie C. Roy and brought her to the National Police Academy, where she and three colleagues were tortured for 4 days before being transferred to the Delmas 33 police station. While at Delmas 33, they claimed to have been tortured using the kalot marassa method and brutally beaten by civilian attaches before being transferred to Fort National prison. Roy was refused medical treatment and legal counsel upon her initial arrival at Fort National, but eventually was allowed to see a doctor and obtain a lawyer after protest from the National Coalition for Haitian Rights (NCHR). Roy was eventually transferred to the Petionville police station where she remained at year's end.

On October 14, homeless 16-year-old Jonathan Louima was brutally beaten and tortured in the Port-au-Prince Police Commissariat. After being arrested, Louima was brought to the police station where police beat him and summoned dogs to bite him all over his body. He survived the attack, and HNP Chief Inspector Sainturne promised an investigation. At year's end, no police officers had been held responsible for the attack.

The police were accused of using excessive force against demonstrators and failing to protect demonstrators from violence by pro-Lavalas chimeres (see Section 2.b.).

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. Some prisoners who were incarcerated for petty crimes were given amnesty and released by the Ministry of Justice during the year. The Government estimated the total prison population to be 3,519, including 116 female and minor (male and female) prisoners. This figure changed somewhat on December 31, when President Aristide issued a decree giving full amnesty to common law criminals still awaiting trial, and commuted the sentences of 66 other prisoners.

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.

The Government commission to investigate the 2001 riot at the National Penitentiary, the country's largest prison facility located in Port-au-Prince, had not yet published a report of its findings.

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 à 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 NCHR actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign.

The DAP conducted objective testing of prison physicians and nurses to exclude 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 medication.

Fort National prison in Port-au-Prince was the only prison facility exclusively for women and juveniles. In other prison facilities, women were held in cells separate from men. However, in 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners shared living quarters with male prisoners. This subjected women to violence and sexual abuse. Due to overcrowding, juveniles often were held with adults.

On February 14, 18-year-old Natacha Jean Jacques was released from Fort National, following strong protests from civil society organizations. Jacques became pregnant during her incarceration at Fort National while serving time after being arrested in 2000 for killing the man who was raping her. A warrant was issued for the arrest of her rapist in jail, a medical assistant working at the prison, Ilus Denasty. At year's end, he remained at large.

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 employ both practices. 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. Judges often issued arrest warrants with little or no evidence.

The HNP is officially an autonomous civilian institution; however, 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 and narcotics trafficking (see Section 3). While some new cadets entered through a competitive selection process, the Government appointed more than half of the new recruits based on political and personal favoritism. In the spring, the police academy graduated more than 800 police officers, including a record number of female officers. The HNP failed to pursue criminals, promoting a growing condition of judicial impunity. The Special Brigades are small detachments of regular policemen attached to certain commissariats throughout the country. These units, which have no special tactical training, are equipped with assault rifles and dressed in black T-shirts that read "BS." Their job is to provide defense for the commissariats or fill in for SWAT in certain situations until SWAT teams can arrive.

Killings and other abuses (see Section 1.a.) involving civilian attaches in police commissariats increased during the year. Attaches have their roots in the launch of the zero tolerance operation in June 2001. They are not members of the police force, nor have they received any official training at the police academy; rather they act as special units of armed civilian thugs and operate in police stations of large urban areas. They also often provide special security for key political figures. Attaches function under the direct control of the chief commissioner of a police station and are given special identification cards. The most notable commissariats for atta-

che activity were Delmas 33, Carrefour, Cite Soleil, Port-au-Prince, Petionville, Gonaives, Cap-Haitien, and Hinche.

Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, 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 persons 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. 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.

Prosper Avril, former general and head of the military government from 1988 to 1990, remained incarcerated despite the Gonaives Court of Appeals' ruling in October 2002 that his rearrest was illegal, and which ordered his release. However, the district attorney's office in Port-au-Prince did not comply with the ruling. Avril remained incarcerated at year's end.

On March 9, women's rights activist Carline Simon and her husband Serge were brutally arrested, beaten, and held for a week without formal charges brought against them. The couple was arrested after the police rescued them from a failed kidnapping attempt. On March 10, they were transferred from Cite Soleil to the Delmas police station as State Prosecutor Josue Pierre Louis issued a temporary release order for the couple. The Delmas Police Commissioner refused to free them and a HNP spokesperson claimed they were in possession of illegal firearms; those weapons were never found. Due to immense pressure from the human rights community, Simon and her husband were released on March 13.

After spending almost 6 months in the National Penitentiary, Rosemond Jean, head of the movement to reclaim lost money from government-supported cooperatives, was released on March 31. Arbitrarily arrested without warrant in September 2002, attaches beat Jean and accused her of possessing illegal firearms and munitions. Police entered his house without a warrant, claiming that he had weapons and he was plotting against the state. No weapons were ever found in his possession. After pressure from the international community, the authorities cleared Jean of all charges and released him in March.

On February 18, former Army officers Ibert Blanc, Rosalvo Bastia, and Pastor Ceriphin Franck were arrested in the central department of Hinche without charges. On July 29, the three were transported by helicopter to Port-au-Prince. Accused of conspiring against the security of the State, they remained at the National Penitentiary awaiting trial at year's end.

Prolonged pretrial detention was a serious problem. Judicial delays left an estimated 78 percent of the country's prison population awaiting trial. 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 prolonged detention of persons with valid release orders continued to be a problem (see Section 1.e.).

Since her July 14 arrest, Judie Roy remained incarcerated in a prison in the Port-au-Prince suburb of Petionville, accused of conspiring against the security of the State (see Sections 1.c. and 1.f.).

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.

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 are 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 to perform their duties. Professional competence was sometimes lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. 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 Ministry can remove justices of the peace and in practice has occasionally dismissed judges above this level.

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. Criminal assizes in Port-au-Prince have met only once a year since 1998.

Citizens deported to Haiti after completing prison sentences in foreign countries are detained until a family member agrees to take custody of them and their prison release order is processed, although there is no provision for such detention in the law. This generally takes 1 to 2 months, but has lasted as long as 4 months in unusual instances.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; however, police and other security force elements routinely conducted searches without warrants (see Section 1.c.).

#### *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 did not respect these rights in practice. Several times during the year, the Government publicly expressed 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 form of 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 Cre-

ole. There were 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 kidnapping 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. Pro-government OPs (loosely organized neighborhood-based groups that often functioned as politically-affiliated gangs) 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 contributed to an increased sense of vulnerability among members of the media who criticized the Government or Fanmi Lavalas.

According to a report released on August 15 by the Committee to Protect Journalists, in less than 3 years, 2 journalists, Brignol Lindor and Jean Dominique, had been killed and nearly 30 others had fled into exile. At year's end, only one person remained in prison awaiting trial for the December 2001 killing of Petit-Goave journalist, Brignol Lindor (see Section 1.a.).

On February 4, assailants shot Reverend Manes Blanc, the director of Radio Shekina in St. Marc, twice in the stomach. His assailants said he was too vocal in his anti-Lavalas comments, and that they intended to kill him. The gunshots were not fatal, and no one was charged with the crime.

On February 14, veteran reporter Goudou Jean Numa was warned about returning to his home as unknown persons had visited earlier in the day inquiring about him. Arsonists returned later and set fire to the reporter's vehicle. Goudou left the country.

On February 18, pro-Lavalas forces burned the home of Voice of America stringer Montigene Sincere and arrested, then released, his two sons, who were also journalists. Sincere was attacked in the past by persons believed to be acting on behalf of FL.

That same day, Radio Metropole, a pro-opposition radio station in Port-au-Prince, observed a 24-hour pause in news reporting to protest attacks on several of its staffers in weeks prior. Two days before, shots were allegedly fired at the home of the mother of Radio Metropole political columnist Nancy Roc.

On October 28, several armed and masked individuals in a truck with government service license plates opened fire on Radio Caraibes in Port-au-Prince. The attack occurred the day before a court hearing on the case of a Radio Caraibes journalist who was killed in a traffic accident involving a vehicle and employees from the Interior Ministry. No one was injured in the attack. While he did not denounce the attack, government spokesperson Mario Dupuy promised an investigation of the event. The case remained unsolved at year's end.

Radio Maxima in Cap-Haitien, a prominent anti-Aristide station was attacked a number of times since December 2002, leaving all three of its transmitters destroyed. Staff also reported verbal threats against their lives before and after the anti-Lavalas demonstrations planned for October 24-25 in Cap-Haitien.

In September 2002, Radio Kiskeya temporarily went off the air after receiving threats that an OP was going to attack the station. On April 30, Liliane Pierre Paul, the Program Director for the station, received a threatening letter with a bullet inside. The letter instructed her to broadcast a message on the radio by May 6 calling for French President Chirac to pay financial reparations to Haiti, threatening to kill French citizens in the country and Pierre Paul if she did not oblige. The letter was signed by members of various OP Lavalas groups, including the group believed to be responsible for the murder of Brignol Lindor. Nothing happened on May 6.

On March 20, the investigative report by Judge Sainvil on the 3-year-old murder of radio journalist Jean Dominique was released. The report indicted six men who have been in prison for 2 years on unrelated charges (see Section 1.a.). In December

2002, armed men attempting to enter the home of Michele Montas, Dominique's widow, shot and killed Maxime Seide, her bodyguard. Montas left the country. On April 3, the third anniversary of Dominique's death, major radio and print media staged a blackout refraining from all news reporting, broadcasts, and analyses to demonstrate what a country would become without a free press.

Foreign journalists generally traveled without hindrance from the authorities. The Government did not censor books or films.

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 freedom of assembly; however, the Government's increasing repression of planned events and periodic prohibition of demonstrations flagrantly ignored that freedom. Although some organizations were able to exercise this right without hindrance throughout the year, numerous violations of this freedom frequently occurred in the capital as well as in the provinces. Authorities frequently failed to provide police protection for opposition parties, student groups, and women's 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 and brutally beating them with clubs.

The HNP and governmental authorities continued to suppress citizens' fundamental rights to demonstrate, protest, and express their opinions. There were a series of general strikes in January promoting a variety of causes that often ended in confrontation or death (see Section 1.a.). Transportation unions and the opposition called for strikes and demonstrations throughout the month of January to protest the price increase for fuel and continued to urge President Aristide to resign.

Activists and women's organizations took to the streets of Port-au-Prince on March 10 to commemorate International Women's Day and to call for justice in cases where women's rights had been violated. The HNP attempted to break-up the demonstration, claiming that the women were not authorized to hold a march. Police confiscated the keys to the vehicle carrying the sound system and cut the connection from the system to the generator, yet the women were able to continue marching without further incident.

For several years, the Central Plateau and the city of Hinche have been plagued with political violence. In March, the pro-opposition Papaye Peasants Movement cancelled its march, marking its 30th anniversary in Hinche, due to warnings of security problems, and read its resolutions on the radio instead. Armed Lavalas OP's, unaware of the cancellation, blocked the road between Hinche and Papaye and assaulted anyone who attempted to travel that road. They injured more than 10 persons in the attacks.

On July 12, the civil society Group 184 (G184) led a "Caravan of Hope" on a march into the pro-government stronghold of Cite Soleil. The group planned to unveil a new social contract, but the event turned violent when the meeting place was overrun by a mob of pro-Lavalas chimeres. Police put forth little effort in stopping the chimeres and appeared to have incited hostilities. Personnel from foreign embassies and the OAS were on hand to observe the rally and were unharmed.

On August 30, in the north, Cap-Haitien police, apparently responding to government instructions, violently repressed the opening event of a planned opposition/civil society "Weekend of Solidarity," using tear gas and automatic weapons to disperse the peaceful open-air meeting. Pro-government popular organizations used barricades of burning tires to block access. The march scheduled for August 31 was then cancelled.

On September 14, another opposition march in Cap-Haitien was broken up a half a kilometer from its starting point by another group of chimeres throwing rocks and bottles at 2-5,000 demonstrators. Police launched tear gas at both the Lavalas aggressors and then at the opposition crowd. The confrontation occurred after police allowed 1,000 pro-FL counter-demonstrators to breach their assigned route and confront the oncoming opposition demonstration.

On October 25, in Cap-Haitien, pro-Lavalas chimeres constructed barriers and blocked road and air entry into the city in anticipation of an opposition march planned for October 26. Despite police efforts at dismantling the barricades, rock-throwing chimeres went on a rampage through the city effectively causing the opposition to cancel the demonstration.

On October 29, two nonpolitical demonstrations staged by women's groups, one to protest the climate of violence in the country and one to plant trees, were broken up by Lavalas chimeres. In both cases, police failed to prevent the disruption of the demonstrations, and little afterward to constrain the chimeres.

The G184 planned November 14 rally, to discuss its social contract and to present its political proposal, in downtown Port-au-Prince foundered in the face of a governmental campaign of obstruction and repression. Long before the rally was to begin, police impeded access to the area by constructing roadblocks and searching private vehicles. The rally failed to commence as OP members attacked the G184's stage equipment while police arrested 25 G184 members, including the brother-in-law and nephew of G184 leader Andy Apaid. As G184 members tried to move to the staging point, they were confronted by rock-throwing pro-Lavalas OP members. Crowd-control police intervened using tear gas and firing warning shots into the air. In an effort to avert further violence, Apaid called an end to the gathering in the early afternoon as OP members chased G184 partisans from the scene. Most of the G184 members were released on November 18, but the Apaid family members remained in prison until December 1 on false weapons charges.

On December 5, pro-Lavalas chimeres violently disrupted an anti-Aristide demonstration planned by State University students. An estimated 30 students were injured, at least 10 by gunfire. The University Rector suffered 2 broken kneecaps as a result of clubbing by the chimeres. Police on the scene were complicit with the chimeres throughout and did nothing to curb the violence, reacting only when the Rector was clubbed, and only then assisting in the evacuation of the students. Human rights groups and government officials widely criticized the attack, which led to the resignation of the Minister of Education, Marie-Carmel Paul Austin.

On December 8, several thousand students demonstrated in Gonaives, demanding justice for Port-au-Prince university students attacked by pro-Lavalas chimeres on December 5 (termed "Black Friday"). Police used tear gas to disband the demonstrators and indiscriminately fired into the crowd injuring several civilians and two police officers. One journalist on the scene reported that police shot and injured several journalists attempting to verify how many protesters died during the event.

On December 12, State University student protesters in Port-au-Prince joined forces with Apaid's 184 and members of the city's business, legal, academic, and artisan community to launch a massive anti-government demonstration. Early morning police barricades and burning tires erected by chimeres, some carrying arms, attempted to thwart the crowds that had gathered in various sections of the city. Police fired into the air and used tear gas in an attempt to disperse the demonstrators, who regrouped later in another location; this pattern continued throughout the day. There were no reported fatalities.

Following a student demonstration on December 15, HNP officers injected 21-year-old Josue Alcenat with an unknown substance while holding him at the police station in Canape Vert section of Port-au-Prince. Alcenat spent 5 days in a local hospital undergoing tests to determine the nature of the substance. Alcenat was sent to a medical facility abroad to undergo further testing after the hospital was unable to arrive at any concrete conclusion.

On December 17, small groups of students attempted to mobilize in Port-au-Prince, but low numbers and aggressive police intervention combined to prevent a major demonstration. Lavalas chimeres reportedly opened fire on several journalists and protesters in different parts of the city as police used large amounts of tear gas to disperse students assembled at various points. Simultaneously, police employed similar tactics to halt anti-government demonstrations in cities outside the capital, such as Jacmel, St. Marc, and Cap-Haitien. During one protest in Trou de Nord, police fired into a crowd attempting to break-up a protest and killed a young girl. Protesters responded by attacking several government office buildings and burning the house of the police officer who shot the girl.

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. Precise figures were difficult to obtain, but it was estimated that 80 percent of the population were Catholic. However, Protestant denominations (primarily Methodist and Baptist) were growing in terms of number of active members, in comparison to the Catholic Church membership. 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 2001, the Ministry of Religion

officially recognized the first Voodoo church, the Eglise Vodou d'Ayiti, and in April, the Government officially recognized Voodoo as a religion.

Accusations of sorcery, particularly in rural areas, led to mob violence and killings, and Voodoo practitioners were targeted in some cases.

For a more detailed discussion, see the 2003 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 and frequently provided small sums of money to repatriated migrants for transportation. During the year, the ONM assisted 17,323 repatriated citizens. 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 includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status on asylum.

*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, and the political crisis stemming from flawed 2000 elections continued to hinder the implementation of this right. The dominant Fanmi Lavalas (FL) political party, which controls all branches of government, manipulated legislative elections in May 2000 and exaggerated electoral participation in the November 2000 presidential elections. OAS efforts since then to resolve the crisis have been unsuccessful.

In September 2002, the OAS unanimously approved Resolution 822, delinking international economic assistance from the signing of an FL/Convergence Democratique (CD) accord between FL and opposition parties. 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 to combat impunity, and participate in the formation of a credible Provisional Electoral Council by November 4, 2002, and an Electoral Guarantees Commission by December 4, 2002. 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, 2002, seven of the entities comprising the CEP had nominated a representative, although not officially sworn them in. CD, the main opposition block, had not put forth a representative.

OAS policy remained focused on implementation of Resolution 822, the main thrust of which was the formation of a legitimate CEP, which was to be charged with planning local, municipal, and legislative elections during the year. However, elections did not take place, largely due to the inability to form the consensus CEP.

The Government had invited a three-member OAS special inquiry commission to investigate the 2001 attacks on members of opposition parties, which were triggered by an apparent attack on the presidential palace. 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. An agreement was reached between the two largest opposition political parties, the Struggling People's Organization (OPL) and the New Christian Movement for a New Haiti (MOCHRENA), and the Government paid reparations during the year.

Resolution 822 also called for a thorough inquiry into all politically motivated crimes and cited the need to strengthen independent police and judicial institutions to combat impunity. In particular, the OAS requested the arrest of Amiot "Cubain" Metayer, also the leader of the Cannibal Army in Gonaives, for his part in the violence of December 2001. After failing for 7 months to rearrest Metayer, and following the exile of the judge assigned to the case due to threats and pressure, the State Prosecutor's office in Gonaives exonerated Metayer and declared his initial arrest illegal on May 14. On September 23, Metayer's body was found in St. Marc. Although the Government promised a full investigation, many opposition groups,

and even Metayer's own Cannibal Army, accused authorities of ordering the murder to ensure Metayer's silence about official involvement in the violence.

On the occasion of the high-level OAS/CARICOM meeting on March 19–20, the OAS emphasized replacing the leadership of the HNP for the Government to further demonstrate its willingness to combat impunity. On March 25, Jean Claude Jean-Baptiste replaced Jean Nesly Lucien as Director General (DG) and Evans Pierre Sainturne replaced Victor Harvel Jean-Baptiste as HNP Chief General Inspector. These appointments immediately sparked controversy among human rights organizations and the international community because of numerous and credible reports of criminal activity by both officials. There was photographic evidence of Jean-Baptiste participating in the brutal beating and burning murder of Pastor Sylvio Claude, leader of the Parti Democrate Chretien Haitien, one of the political parties that ran against FL in the 1990 elections. Additionally, Jean-Baptiste was named as DG without consultation with the OAS, as required by Resolution 822.

Under significant international pressure, the authorities replaced Jean-Baptiste with Jean-Robert Faveur, who was sworn in on June 6, as DG of the HNP. On June 21, Faveur resigned his position, citing government intimidation and interference in his decision-making, and his unwillingness to execute illegal orders. Faveur fled the country fearing retribution for public statements he made on the radio about his experience as DG. In July, former civil court senior judge (Doyenne) Jocelyne Pierre replaced Faveur as DG. Sainturne was implicated in the 2001 murder attempt on the investigating judge of the Jean Dominique murder investigation, but remained the Chief General Inspector at year's end.

Affiliation with the FL was increasingly 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 (see Section 1.d.).

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 (see Section 1.d.). Most remained in jail for months despite the widespread perception that the charges were without foundation.

On December 14, two prominent critics of the Government, Senator Pierre Prince Sonson and Catholic Bishop Pierre Andre Dumas, were shot at in what appeared to have been murder attempts or intimidation. Another vocal critic of the Government, Evans Lescouflair, also reported a December 11 attempt on his life. An opposition politician accompanying Prince Sonson at the time of the attack identified Lavalas Deputy James Desrosins as driver of the vehicle used in the attempt on Sonson's life. The attack on Sonson came days after a Lavalas Deputy issued an incendiary call to arms to Lavalas supporters.

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.

#### *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 ICRC, the U.N. Independent Expert on Human Rights, the UNDP, the IACHR, and the OAS Special Mission's human rights office. However, threats and intimidation from unknown sources against domestic NGOs continued during the year.

In a report released before the April 17 session of the U.N. Human Rights Commission, independent observer Louis Joinet cited the steady decline in the human rights situation since his September 2002 visit and recommended establishment of an office of the U.N. High Commissioner for Human Rights in the country. Joinet noted that security had deteriorated and violence against human rights defenders increased; arrests, illegal detentions of political activists, police brutality, and cases of intimidation had been widely publicized; and the judicial system continued to be deficient as judges had been subjected to attacks, causing some to go into exile. Joinet's report also recommended a national commission on reparations for the victims of the 1991 coup d'etat and legislative reform of three bills concerning the judiciary as a means of combating impunity. At year's end, the proposed office had not



been established, but the U.N. High Commission on Refugees (UNHCR) opened an office in the neighboring Dominican Republic, which began to handle cases of Haitian political asylum seekers.

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 money 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.

No investigations were opened in the 2002 cases of Patrick Merisier, a human rights field monitor who was shot, or human rights attorney Fleury Lysias who was illegally arrested and beaten.

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, 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 February, Marie-Yolene Gilles, coordinator of NCHR's Human Rights Monitoring Program, was targeted by a campaign of intimidation. While working on the December 2002 triple murder case of the three brothers killed by police in Carrefour (see Section 1.a.), Gilles received phone calls with threats to kill her and her family and burn down her home. She was threatened again in August for her work investigating attaches in police stations.

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. The Government did not directly impede OPC investigations but did not always respond to its requests for information. In the past, 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. This perception changed, however, with the appointment of Necker Dessables, a respected human rights advocate, as the OPC ombudsman in 2002. 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 improved and continued to be positive. The OPC had budgetary problems and employed only four investigators and was therefore unable to be very active in investigations of human rights abuses.

The Parliament's Justice and Human Rights Committee did not have a high profile and focused largely on judicial issues.

#### *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. Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs and HIV/AIDS activists were fighting to change that stigma.

*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 local armed thugs frequently raped and harassed girls and women in the "quartiers populaires" (slums) like Cite Soleil and Martissant. Police authorities rarely arrested the perpetrators or investigate the incident, and the victims sometimes suffered further harassment in retaliation. 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 specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment 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 remained 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 rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored 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 early January, a 10-year-old girl was lured into an alley, raped, and became pregnant by a 16-year-old male. On April 16, the victim's family filed a complaint against the male with the Justice of the Peace of Carrefour. On January 17, police arrested him and released him the following day, but then rearrested him on April 28 after the family filed a complaint with the State Prosecutor's office. After discussion between the assistant prosecutor and the defendant's lawyer, the defendant was released, provided he would return for the hearing in May; he never appeared and neither did the Assistant Prosecutor. The lead State Prosecutor highlighted the apparent collusion between the defendant's lawyer and the assistant prosecutor. Following significant press coverage and interventions by human rights and women's organizations, the defendant was arrested for a third time on May 16. He spent only a few days in prison at Fort National and was subsequently released due to his age. The prosecutor's investigation of the case continued at year's end.

The law prohibits corporal punishment of children, and all schools must 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, or "restaveks" ("to stay with" in Creole) 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. UNICEF and Save the Children Canada and UK, in conjunction with local NGOs such as the Haitian Coalition for the Defense of the Rights of the Child (COHADDE), promote children's rights by conducting studies of children's issues, most notably a study on child domestic labor (see Section 6.f.), and awareness raising activities in the country.

*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 and kidnappings 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 including 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 Constitution and the Labor Code provide for the right of association, which was generally respected in practice; however, the Labor Code dates from earlier governments and is far more restrictive. For instance, there is no legislation protecting the right of public employees to organize.

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 decreased significantly, but unions remained active in the public sector. Some union representatives asserted that union activists not affiliated with the Government felt themselves forced into self-exile.

Several unions have grievances pending against the Government over unfair labor practices and other worker rights violations before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions.

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 FL party. On July 29, armed men visited the home of Petit-Frere Jean-Louis, Secretary General of the General Independent Organization of Haitian Workers. Jean-Louis had spoken out against the corruption among Lavalas officials in Port de Paix and in the Northwest Department. He was not home at that time but upon hearing of the incident, he left Port de Paix and went into hiding in Gonaives.

On July 30, the office of Fignole St. Cyr, Secretary General of the Autonomous Central of Haitian Workers, was the target of similar harassment. While he was out, armed thugs entered St. Cyr's office and demanded his staff divulge his arrival time. The truck circled the office for the remainder of the morning but eventually left when St. Cyr failed to appear. St. Cyr had taken part in the G184 demonstration in Cite Soleil (see Section 2.b.) and had criticized the Government on unemployment, the political crisis, and interference with the press.

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 anti-union 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 affiliation 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, or in previous years. Unions generally were free of government and employer interference 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 anti-union 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 were problems 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; however, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was 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 2002, 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.

There are no export processing zones (EPZs) outside of the metropolitan area. Legislation governing free trade zones provide that the Labor Code applies in the EPZs, and the Government signed an agreement with Grupo M, a Dominican textile company, to build a production facility in a newly established free trade zone on the border near Ouanaminthe. On October 9, the International Finance Corporation (IFC) approved a loan to the company; its provisions stipulated a social compensation plan for farmers and landowners displaced by the project. The IFC called for independent investigations into allegations of Grupo M abuse of workers and union organizers. Nevertheless, Batay Ouvriye, an organization of peasant workers, strongly opposed the project, and progress has stalled pending legislative authorization of the land concession, which had not been granted at 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, sometimes under harsh conditions (see Sections 5 and 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. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. 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. Government agencies lacked 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.

The Government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor. It has not defined "worst forms of child labor" or "hazardous work."

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 has begun to place a high priority on the eradication of child domestic labor (see Section 6.f.). Despite the Government's efforts, the budget for the Ministry remained 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's International Program for the Elimination of Child Labor (IPEC) in 1999. IPEC began a Child Labor Project in 2000, which was scheduled to end in December 2002 but continued through the spring and developed a framework focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor. A much-lauded government-sponsored hotline for children in crisis operated only during regular business hours and had limited resources and access to safe shelters. In August 2002, 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.).

*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. In this sector, working conditions were also generally better and there were no reports of child labor.

There were no formal data, but unions alleged 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 Government passed a law in June prohibiting trafficking in women and children; however, trafficking in women and children was a problem. Internal trafficking of children for domestic labor remained a problem in the country. On October 8, a new, more comprehensive law was introduced before Parliament that would render trafficking in all persons illegal. The Chamber of Deputies approved it and it was waiting Senate passage at year's end.

Haitians trafficked overseas were sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. The results of the most recent study of trafficking across the border conducted by UNICEF in August 2002 reported that between 2,000 and 3,000 Haitian children were trafficked to the Dominican Republic each year. The findings were the result of a joint UNICEF/International Organization for Migration study. However, most trafficking occurs within the country's borders and involves children. In June, the Government created a Brigade for the Protection of Minors (BPM), a special unit under the HNP charged with investigating cases of child trafficking and monitoring movement of children across the Haitian/Dominican border. The BPM was functional; however, resource issues remained a barrier to its operational capacity.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*. In May, the country's first lady, Mildred Aristide, authored a book documenting the *restavek* phenomenon in Haiti, its historical background, and the steps that the Government should take to combat the practice. 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 believed 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 May, the Ministry of Labor and Social Affairs held a conference to unveil the results of a study that the Government co-sponsored with UNICEF, ILO/IPEC, UNDP, and Save the Children Canada and UK to determine the fundamentals of child domestic labor practice. The study, which covered the fiscal years 2001–02, noted that 173,000 children, or 8.2 percent of children between the ages of 5 and 17 years of age, worked as domestic household labor. Of that 8.2 percent, girls comprised the majority of child domestics at 59 percent and boys at 41 percent. Labor laws require anyone who has a child domestic in their employ to obtain a permit from IBESR and to ensure the overall welfare of the child until they reach 15 years of age. Additionally, 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 dismissed many restaveks before they reached that age.

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 trafficking of children. Since its establishment in 2000, the hotline for child abuse victims received over 720 calls leading to action on 158 cases, either through initiation of criminal action against an abusive adult or removal of the child from an abusive situation. Eighty-three percent of the children involved in these cases were in domestic service, many were under the age of 12, and many reported abuses such as beatings, rape, and malnutrition. In August, IBESR hired four additional monitors to rescue children believed to be working in forced labor situations. Government officials placed rescued victims in shelters and in the care of local NGOs, such as Foyer Maurice Sixto, a children's shelter located in Port-au-Prince.

In August, the Ministry of Foreign Affairs approved the creation of three additional consulates along the Haitian/Dominican border, which were charged with monitoring the movement of Haitian children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice circulated memorandums to magistrates around the country in an awareness-heightening campaign on the new anti-trafficking law and on child labor laws. To address some of the social aspects of the restavek practice, the Government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The Government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

There was no evidence that the authorities were complicit in trafficking of persons.

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## 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. 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 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. Police committed most human rights abuses during the year; however, the military committed abuses in the past. The Public Ministry is an independent entity led by the Attorney General, selected by Congress for a five-year term, and includes prosecutors and the Directorate of the Fight

Against Drug Trafficking (DLCN). The Public Ministry is poorly staffed and equipped, often ineffective, and subject to corruption and political influence.

The market economy is based primarily on agriculture and, increasingly, on the maquiladora (assembly manufacturing for export) industry. The country has a population of 6.7 million. According to the Central Bank, in 2002 approximately 40 percent of the labor force worked in agriculture, followed by 22 percent in commerce, and 14 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. Non-traditional 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 real economic growth for the year at 2.5 percent. About two-thirds of the country's households live in poverty, and 40 percent of the population lives on less than \$1.00 (17.5 lempiras) 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 members 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 new Criminal Procedures Code in effect 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.

#### 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 at least 24 of the estimated 1,250 extrajudicial, arbitrary, and summary killings of youth under age 22 and minors from 1998 to June 2002. A February report by the Permanent Commission on the Physical and Moral Integrity of Children, a commission made up of government and civil society leaders to investigate killings of children and youth, estimated there had been 744 children under 18 killed from 1988 to 2002. The Minister of Government later reported that 800 children were killed from 1988 to the end of the year. There has been little or no progress made by the Public Ministry in bringing charges in most of these cases.

According to Public Ministry figures from the government's morgues in Tegucigalpa and San Pedro Sula, there were 2,205 persons killed in 2002, a figure that almost certainly undercounts the actual number of murder victims.

There was some improvement in the government's ability to investigate, but not to prosecute, suspects in the killings of children and youth. According to the non-governmental organization (NGO) Casa Alianza, information on killings collected from press reports show that the average number of killings of children and youth under age 23 through June 2002 increased by 16 percent over the first 6 months of 2001, rising from 197 to 230 killings. The average number of killings of children by firearms increased 46 percent from 52 minors in 2001 to 76 in 2002. During 2002, no perpetrator was identified in 60 to 70 percent of the killings; gangs were suspected in 15–20 percent of killings; police, private guards, or neighborhood vigi-

lante 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, 557 children and youth age 23 and under were killed during the year, compared to 549 in 2002.

In April 2002, 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. In September 2002, a group of armed men in a pickup killed five youths in Tegucigalpa, mimicking a 1995 torture and killing of youths. The 1995 case was under consideration by the Inter-American Commission on Human Rights (IACHR) (see Section 1.c.).

In a January 2002 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 by using gang signs or ask victims to take off shirts to show whether the victims had gang-related tattoos.

In September 2002, the Ministry of Public Security established a special investigative unit on child murders to follow through on cases. The Ministry of Public Security has assigned 20 detectives to the Special Investigative Unit—10 in Tegucigalpa and 10 in San Pedro Sula—as well as 4 analysts, 2 in each city. There are a total of 32 people, including administrative staff, assigned to the unit. The police have 300 detectives nationwide. As of December 11, the Special Investigative Unit had investigated 148 cases of killing of children and young adults. Forty-eight cases covering 66 victims have been resolved; 100 cases were still under investigation at year's end. Of the 48 cases, 22 were gang-related, 13 involved members of the security forces, and 13 involved civilians. Casa Alianza provided information on 15 cases in September 2002 and another 8 cases in January for a total of 23 cases of killings of minors in which police were suspected of involvement. As a result of the investigations, in October 2002 the authorities arrested former policeman Walter Enrique Moncada Duarte for the 1999 killing of minor Alexander Reyes. Of the 23 cases, the special investigative unit had completed investigations in 9 cases and investigations were pending in the other cases at year's end. However, the judicial system had taken little action on these cases at year's end.

In September 2002, 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 2002, the U.N. Special Rapporteur on Extrajudicial, Arbitrary, and Summary Executions released a report based on her 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 killings involved police. In October 2002, 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 Children's 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 continued 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 killings. 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 2002, the Police Director of Internal Affairs 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. In September, police officer Juan Carlos "Tiger" Bonilla, wanted for suspected involvement in an extrajudicial killing,



turned himself in to authorities in San Pedro Sula. Bonilla was arrested but then granted bail.

On April 5, 68 persons, 61 of them gang members, were killed in a violent incident at El Porvenir prison near La Ceiba. Reports done by both a Special Commission of the Honduran National Council for Internal Security (CONASIN) and the Human Rights Commissioner put the blame for the vast majority of the deaths on government security forces (police and military under police command) and nongang member inmate trusties. While it appears that gang members started the violence, security forces and trusties then beat, shot, and burned them to death, according to the reports. Many gang members appear to have been summarily executed while attempting to surrender to the authorities. At year's end, the Deputy Warden who was in charge at the time of the incident was under arrest and the Public Ministry and the Ministry of Public Security was investigating several members of the security forces involved in the incident.

On July 18, unknown assailants killed environmental activist Carlos Arturo "Oscar" Reyes in his home. Reyes was involved in NGOs' protests of illegal logging in Olancho department. Priest and environmental activist Jose Andres Tamayo received death threats for his involvement in protesting illegal logging.

On November 23, unknown assailants killed Jose Daniel Chinchilla, the Vice President of La Central Cooperativas Cafetaleras de Honduras. An investigation into his killing was pending at year's end.

On December 18, the priest Guillermo Antonio Salgado was killed in Juticalpa. Police subsequently arrested Arlin Daniel Escobar Molina on murder charges.

In August 2002, 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 (CODEH), in his home near the city of La Ceiba. Preliminary investigations indicated that the gang had threatened Callejas after he positively identified them to police as having committed a killing. 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.

There were no developments in the 2001 killing case of the son of a Potrerillos, Cortes department, mayoral candidate and his friend.

There was no more information on the 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 2001 killing of Nationalist Party congressional candidate Angel Pacheco Leon in Valle department.

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 were 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; however, on January 23 the Public Ministry took samples for testing exposed bodies found in the department of Olancho. 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 April, the press reported that four clandestine grave sites had been found recently in the country, but these have not been exhumed.

Various witnesses, survivors, and former HOAF personnel charged that members of the now-disbanded army Intelligence Battalion 3-16 illegally detained, 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.).

In May and July 2002, police arrested Jose Angel Rosa and Jorge Adolfo Chavez Hernandez, a former member of Battalion 3-16, for the 1998 killing of environmental activist and Catacamas town councilman Carlos Antonio Luna Lopez. An appeals court later freed Rosa; however, in May 2002 police arrested him for the attempted killing of Sylvia Esperanza Gonzales, which is related to the killing of Luna Lopez. Rosa remained in prison on unrelated environmental charges at year's end. In May, the Supreme Court ruled against a motion to dismiss the charges against

Chavez, and he remained in prison at year's end. Former security official Jose Marcos Hernandez Hernandez and two other suspects remained at large. In December 2002, a court sentenced Oscar Aurelio "Machetillo" Rodriguez Molina, to 20 years' imprisonment for the murder of Luna Lopez and 7 years' imprisonment for grave injury to Gonzales. In January two NGOs brought the case to the IACHR.

In August, the authorities arrested Jaime Ramirez Raudales, also known as Jaime Rosales, a former member of Battalion 3-16, for the 1988 political killings of social activists Miguel Angel Pavon Salazar and Moises Landaverde Recarte.

In June, an appeals court upheld the dismissals of the arrest warrant for Raymundo Alexander Hernandez Santos and retired Major Manuel de Jesus Trejo Rosa for the 1982 illegal detention and attempted murder of Nelson MacKay Echevarria and Miguel Francisco Carias Medina. The Public Ministry then appealed to the Supreme Court, where the case was pending at year's end.

The case against Raymundo Alexander Hernandez Santos for the 1982 illegal detention and murder of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz was ongoing at year's end. On October 8, the Supreme Court ruled against the Public Ministry's appeal of an appeals court's decision not to reissue an arrest warrant for Juan Evangelista Lopez Grijalba, wanted in the same case. On December 2, the trial court dismissed the case against Lopez Grijalba. In April, retired Colonel Manuel Enrique Suarez Benavides, another suspect in the case, died.

Former security officials Jose Marcos Hernandez Hernandez, German Antonio McNeil Ulloa, Jose Alfredo Martinez, and Juan Blas Salazar Meza awaited sentencing at year's end for the 1983 illegal detention and torture of student activist Luis Manuel Figueroa Guillen in Choluteca department. Former security official Dimas Carvajal Gomez, also charged in the case, was killed during the year. Salazar Meza was in jail for his involvement in the illegal detention of six university students (see Section 1.c.).

In the July 1982 killing of university student Hans Madisson, the Public Ministry never received a response to its request to the Canadian Government for testimony from witnesses who had fled the country and applied for asylum in Canada. Nor has the Public Ministry received a response to its request for further DNA testing to identify positively the body thought to be Madisson's. At year's end, the case was continuing against Captain Billy Fernando Joya Amendola, former army Chief of Staff Oscar Ramon Hernandez Chavez, Raymundo Alexander Hernandez Santos, and Segundo Flores Murillo, but none were under arrest.

At year's end, Jose Barrera Martinez, a witness in cases related to Billy Fernando Joya Amendola and Raymundo Alexander Hernandez Santos, was at large despite a pending arrest warrant.

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 six 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 Public Security, and some of them were accused of taking the law into their own hands. 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 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. In 2002, the Ministry of Public Security worked with city officials to assure that vigilante committees did not operate with official support; however, the program was not ongoing at year's end. In June 2002, the Ministry of Public Security announced that all arms, including those of private security firms, would have to be registered.

In September 2002, the Attorney General rejected the idea that death squads were killing youth and children; however, he acknowledged that individual police and vigilante groups committed some killings.

Several "killings for hire" occurred during the year, usually related to land disputes or criminal activities. Six members of the NGO National Central for Rural Workers were killed during the year in land disputes. In April 2002, four landless farmers were killed and one guard was injured when the farmers attempted to take over land also claimed by a subsidiary of a multinational company. There was no information on the proceedings at year's end.

No more information was available regarding the 2001 killings of the Peralta Torres family, farmers' cooperative president Felix Roque, or the suspicious death of farmers' cooperative president Jose Antonio Santos Lopez. Three suspects were

in jail and three remained at large in the June 2001 killing of community leader and environmental activist Carlos Roberto Flores in Olancho. In 2001, a court convicted Edgardo Danilo Arita for the 1999 killing of Cabana mayor Juan Ramon Alvarado case and sentenced him to 10 years' imprisonment.

The 2000 complaint filed by Casa Alianza with the IACHR regarding the illegal detention and killing by police of four youths in 1995 remained under investigation by the Commission at the end of the year. In 2002, Casa Alianza appended a 1998 case to the 1995 IACHR complaint for the torture and killing of two minors in Progreso in which police were suspected of involvement. Casa Alianza had a total of six cases before the Commission; in three of these cases agreements were close to completion.

The Ministry of Public Security reported that gang members killed at least 11 police officers during the year.

A law outlawing gang membership was passed in August and implemented in September. The law prescribes prison terms ranging from 3 to 12 years, depending on the individual's level of involvement and seniority. Human rights organizations criticized the law and filed a brief before the Supreme Court arguing that the law is unconstitutional, but the Court dismissed the brief (see Section 4).

*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 2001 case of former guerrilla Rigoberto Martinez Lagos, who disappeared after leaving his house in Tegucigalpa to meet a police investigative agent.

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. In 2002, the Public Ministry requested information from the HOAF regarding the 1988 disappearance of student activist Roger Samuel Gonzales Zelaya, whose body has not been found; however, the HOAF did not provide any information relating to his disappearance, only information regarding his detention. An investigation was continuing into the involvement of former military officers Carlos Roberto Velasquez Ilovaes and Mario Raul Hung Pacheco in his illegal detention. Only a few bodies were found of the 184 persons who have been documented as disappearances. There was no change in the case of the 1981 torture or the 1984 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.).

There were 17 kidnappings for ransom, many in San Pedro Sula, during the year, which was less than in years past.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In 2002, the Ministry of Public Security fired more than 300 police personnel in both the Criminal Investigative Unit (DGIC) and the Preventive Police for corruption, criminal activity, and abuse of authority. In September 2002, 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 year, the Public Ministry had brought some cases to prosecution. During the year, the Public Ministry also investigated complaints of prison abuse.

Disagreements between the Public Ministry and the Ministry of Public Security continued to create friction. While local prosecutors were able to work in police stations, they did not always maintain good relations with police investigators.

The 2001 order by the General Director of Prisons barring access to district attorneys had not been implemented by the end of the year.

The 2000 Supreme Court ruling that the 1987 and 1991 Amnesty Laws did not cover illegal detention and attempted murder meant that amnesty laws were no longer applicable in the case of Raymundo Alexander Hernandez Santos, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, retired Captain Billy Fernando Joya Amendola, retired General Jose Amilcar Zelaya Rodriguez, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Colonel Julio Cesar Funez Alvarez, accused of the 1982 illegal detention and torture of six university students (see Section 1.e.). In May, the appeals court ruled that Raymundo Alexander Hernandez Santos must be released from prison for the illegal detention charges to which the appeals court had reduced all charges in December 2001. At year's end, the Public Ministry's appeal to the Supreme Court of the appeals court ruling was pending. Hernandez is also charged in the 1982 Avilez and Espinoza killings (see Section 1.a.). In May, a court convicted Juan Blas Salazar Meza for illegal detention and sentenced him to 4 years' imprisonment for his par-

ticipation in the illegal detention of two of the six students. In June, the Public Ministry appealed the failure of the court to try him for attempted murder and the detention of all six students. At year's end, retired Captain Billy Fernando Joya Amendola was free on bail while his case continued. The courts denied repeated Public Ministry appeals to have his arrest warrant reinstated, most recently in July 2002 by the Supreme Court. On March 31, the court issued arrest warrants for two retired colonels, Juan Evangelista Lopez Grijalba and Julio Cesar Funez Alvarez, for illegal detention in the case of the six university students. Retired General Jose Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred, was under house arrest at year's end, under charges of complicity. At year's end, the case was continuing against Roberto Arnaldo Erazo Paz and Manuel de Jesus Trejo Rosa. In 2001, the court dismissed all charges against Jorge Antonio Padilla Torres for lack of evidence. The court also dropped all charges against Juan Ramon Pena Paz who was accused wrongly because he shared the same last names as another suspect, Jose Blas Pena Paz, who died in 1991.

The Public Ministry's appeal of the decision to drop charges against Raymundo Alexander Hernandez Santos and Manuel de Jesus Trejo Rosa for the 1982 illegal detention of Miguel Francisco Carias Medina was pending at year's end (see Section 1.a.).

Police occasionally used force against demonstrators; in some cases a number of persons were injured. Protests sometimes turned violent, including vandalism and the use of Molotov cocktails (see Section 2.b.).

In May 2002, the 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 for those over 18 years of age, 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. Human rights and gay rights organizations alleged that the new law 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).

Police 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, police and military continued to patrol jointly the streets, and petty crime remained relatively high. Gang violence and intimidation on the streets remained a serious problem, and gangs continued to intimidate, threaten, and rob passengers on public transportation. Kidnappings of the wealthy and well-known declined, and 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.).

Prison conditions were harsh and prison security was poor. The Law for the Rehabilitation of the Delinquent establishes regulations for prison conditions, including minimum conditions of sanitation and security for prisoners. The Ministry of Public Security maintains prison facilities, and Prison Police are 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 in 2002, more than twice their intended capacity; more than 88 percent of all prisoners in 2002 were pretrial detainees (see Section 1.d.). Prison escapes, through bribery or other means, remained a frequent occurrence. About 3 percent of prisoners were thought to be gang members in 2002.

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 members of other gangs. During the year, prison authorities continued to move prisoners of opposing gangs into different facilities to reduce intergang tensions and violence. The illegal transfer of a large number of gang members to the El Porvenir

prison was alleged to be a contributing factor to the April 5 incident that killed 68 persons (see Section 1.a.).

More often than not, for lack of alternative facilities, wardens housed the mentally ill, although there is a National Mental Hospital with drug and alcohol rehabilitation, and those with tuberculosis and other infectious diseases, among the general prison population. In July 2002, the National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using excessive force against prisoners. Practices reported included 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 \$0.46 (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 food.

The NGO CODEH 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.

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. There were an average of 281 juveniles held per month at juvenile detention facilities in 2002, according to the Honduran Institute of Children and the Family. 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.

*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 Ministry of Public Security oversees police operations (Preventive Police, DGIC, Transit Police, Tourist Police, and Prison Police), and police are responsible for all public security issues. Police were poorly staffed and equipped, often ineffective, and subject to corruption and political influence. Despite continued attention to the problem by the Government, perpetrators of killings against youth and minors, including in some instances police, continued to act with impunity.

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 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 Public 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 Public Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions.

The law states that police may arrest a person only with a court order, unless the arrest is by order of a prosecutor, made during the commission of a crime, or when there is strong suspicion that a person has committed a crime and may try to evade criminal prosecution, or is caught with evidence related to a crime. Police must clearly inform the person of the grounds for the arrest. The Preventive Police detain suspects and can investigate only misdemeanors, unless the DGIC is not

available, in which case the law allows the Preventive Police to investigate misdemeanors and felonies. Police must bring a detainee before a competent authority within 24 hours; a prosecutor has 24 hours to decide if there is probable cause for an indictment. If a prosecutor decides to indict a suspect, the prosecutor presents an indictment before a judge, who then has 24 hours to decide whether to issue a temporary detention order that can last up to 6 days. Within this time period a pretrial hearing must be held for the judge to examine probable cause and make a decision on whether or not pretrial detention should continue. Under the Criminal Procedures Code, bail is available for felonies. A judge must take into account the seriousness of the crime, the suspect's criminal record and personal history, as well as his financial status before setting bail. Judges can set lower bail amounts for indigent defendants. Lengthy pretrial detention was a serious problem; in 2002, an estimated 88 percent of the prison population awaited trial and sentencing (see Section 1.c.). The authorities expect that over time the new Criminal Procedures Code will reduce or even eliminate the problem of denial of justice through prolonged pretrial detention.

The 1996 Unsented 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 2000, the Government estimated that as many as 3,017 prisoners qualified for release under the Unsented 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 new Criminal Procedures Code 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 reviewed 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 Criminal Procedures Code mandates 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. In addition, it provides for the use of house arrest in felony cases, depending on the seriousness of the crime as well as the suspect's criminal record and personal history.

Neither the Constitution nor the Penal 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. 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 as a privilege of their office. The full application of the Criminal Procedures Code in February 2002 and the establishment of a new Supreme Court in January 2002 slightly improved the judicial system.

The Constitution provides for the right to a fair trial. This right improved in practice over the year since implementation of the Criminal Procedures Code. The new code established an oral accusatory system for all new criminal cases to replace the written, inquisitorial trial system. At the first instance level each case has a pretrial judge, a three-judge trial panel, and a post-trial phase judge. Defendants have appeal rights to an appellate court and the Supreme Court. The new system allows for plea-bargaining, although in practice there have been difficulties in implementation for cases with multiple suspects, and for the provision of appointed legal counsel to all indigent suspects. The Government began oral proceedings in May 2002. 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 pretrial detention after the initial 24-hour detention without a court order. Since the implementation of the new code, there has been some improvement in the legal system's fairness toward those charged with crimes, and cases have been processed with greater efficiency than under the old system.

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 2001 constitutional amendment to restructure the Supreme Court and create an independent judiciary took effect during in 2002. In January 2002, 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, 7-year-term Supreme Court. The Congress then selected 15 judges from the 45 nominees. There are 10 appeals courts, 67 courts of first instance with general jurisdiction, and 326 justice of the peace courts with limited jurisdiction. The Supreme Court names all lower court judges. 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 2002, 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 2002, 35 percent of 140,000 pending cases under the previous procedure were dismissed or resolved. A separate but less efficient procedure led to the release of some pretrial detainees. On November 5, 2002, the Supreme Court named a new Court of Appeals in Tegucigalpa, after having ousted the entire three-member court in the midst of allegations of corruption and impropriety. In 2002, the Supreme Court also replaced judges in San Pedro Sula who were accused of corruption.

The Congress introduced draft constitutional amendments in 2002 that would have given Congress unfettered power to interpret the constitutionality of laws that it passes. In November 2002, 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. In May, the Supreme Court ruled that the proposed amendments were unconstitutional. An initial confrontation between the Supreme Court and Congress ended when Congress refrained from taking any action.

The new Criminal Procedures Code gave the Public Ministry the responsibility to initiate criminal proceedings and to lead investigations. When the code was initially written, the DGIC fell under the Public Ministry. Prior to the code being fully implemented the DGIC came under the Ministry of Public Security. This change means that until the code is revised to designate the Ministry of Public Security as the investigative lead, all investigations are dependent upon the physical presence of a prosecutor, who directs the investigations. Under the old system, which remained in effect for crimes committed before February 2002, judges were in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, police, public officials, and individual citizens could initiate criminal proceedings. The new code with prosecutors serving as investigators has caused problems that led to the dismissal of some cases because a person cannot be a prosecutor and an investigative witness at the same time.

The new code 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 Code, cases cannot proceed if a suspect does not have legal representation. In 2002, 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 Criminal Procedures Code allows for four options: dismissal of charges by the prosecutor, conditional suspension of the proceedings (contingent on behavioral modifications by the defendant), an abbreviated trial procedure whereby the accused admits guilt and receives a reduced sentence, and strict conformity with the law to reduce the caseload

and to prioritize serious crimes for prosecution. The Supreme Court also created a “purging unit” to clear backlogged cases from prior to the implementation of the new code. By law, these cases must be resolved by 2006. There were approximately 49,000 pending cases at year’s end, down from over 125,000 cases.

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, in 2002.

A prosecutor and a judge investigating the 1998 killing 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 their application unconstitutional for nine military officials accused in the illegal detention and attempted murder of six university students (see Section 1.c). Amnesty laws would continue to apply to all military defendants until specific grounds for exclusion of amnesty are applied in that case. 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.

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 which extends to candidates running for office and to acts committed before taking office. A 2000 General Law of Immunities did little to foster transparency and accountability in government. According to the Constitution and the law, charges brought against public officials with immunity first must be adjudicated through unspecified administrative procedures before any criminal proceedings are initiated. In addition, the 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. Under the new Code of Criminal Procedures, the Public Ministry has responsibility to investigate and then present a petition to Congress requesting a revocation of immunity if warranted. If the Congress votes to admit the petition, the Supreme Court nominates three magistrates to hear the case. Members of Congress and other public officials may voluntarily submit themselves directly to the Supreme Court. There had yet to be a case of a congressman convicted of a crime while still in office.

Congressman Armando Avila Panchame requested that his immunity be waived to stand trial after his arrest in July on attempted murder and drug trafficking charges. At year’s end, he was under house arrest awaiting trial. In July, authorities arrested Congressman Mauro Caballero and charged him with environmental crimes; however, his immunity had not been revoked by year’s end. Congressman Melvin Tomas Regalado was arrested and charged for improperly influencing decisions leading to the release and flight of the prisoner Amilcar Antonio Portillo in March and subsequently requested that his immunity be waived. In June the Central American Parliament revoked the immunity of Central American parliamentarian Cesar Augusto Diaz Flores, who was arrested in June (and later convicted) in Nicaragua for trafficking and possession of seven kilos of heroin. In 2002, Congressman David Romero was stripped of his immunity to face charges of raping his stepdaughter. He was in jail awaiting trial at year’s end.

Over the past 9 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.

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, expanded in 2002 to include



kidnapping or endangerment of life. 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 police, the courts, and the Public Ministry remained weak; however, it improved somewhat with the creation of unified centers for police, prosecutors, and public defenders that provide for more efficient operations.

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). 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 Police and Social Order Law restricts demonstrators from using statements that could incite persons 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, a Congressman operated one and a former Liberal Party president runs another. Each government ministry for the most part selects the journalists who cover its activities. If a government ministry is unhappy with the reporter, the minister often speaks with the owner of the media outlet to pressure for a change.

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 subtler, 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.

Responsible journalists on many occasions have conducted investigative journalism and presented corruption stories to the public's attention. However, in some cases 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 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. Press silence can be bought by many means, including the practice of ministers and other high-ranking government officials hiring journalists as public affairs assistants at high salaries. 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 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 criti-

cized 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 several reports of threats or lawsuits against journalists by powerful persons, including legal cases against three journalists for their reports on corruption cases.

On November 26, unknown persons shot and killed German Antonio Rivas, a journalist, in Santa Rosa de Copan, Copan department. An investigation was pending at year's end.

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 protesters, including farmers or teachers, took over roadways in various departments met with police resistance. Police used tear gas and riot troops to clear roadways, injuring a number of persons in some of the incidents.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. However, on August 8, the Congress approved a bill that bans membership in street gangs and prescribes prison terms of 3–12 years (see Section 4).

*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.

For a more detailed discussion, see the 2003 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 the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The government accepted 13 people for refugee status between 1998 and October. The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migration, and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections were held in 2001, and in January 2002 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 somewhat more representative and accountable. Suffrage is universal; however, the clergy and members of the military or civilian security forces are not permitted to vote. In the 2001 elections, voting was expanded to include citizens resident in 5 cities in the United States, of whom only 1,000 voted. Any citizen born in the country 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 killing of Angel Pacheco, Nationalist Party congressional candidate from Valle department, had uncovered no suspects at year's end.

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 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 2001 elec-

tions. There are 9 women in the 128-seat legislature. There are 9 female justices, 1 of whom is president, on the 17-member Supreme Court; and 3 of the 15 Cabinet ministers are women.

There were few indigenous people in leadership positions in government or politics. There are 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.

Several human rights organizations criticized the Government for criticizing their challenges to the constitutionality of the anti-gang law. The human rights organizations alleged that this criticism created a perception that they were supporting members of gangs, which resulted in their receiving threats. Bertha Oliva de Nativi, coordinator of the NGO Committee of Relatives of the Detained and Disappeared in Honduras (COFADEH), had her minor daughter's life threatened. On September 22, COFADEH filed a complaint with the Supreme Court that alleged that the law permits the illegal detention of gang members, violated the principle that all are presumed innocent, and therefore was unconstitutional. On October 9, the Supreme Court dismissed the complaint and ruled that COFADEH did not have standing to challenge the law's constitutionality.

In August 2002, human rights worker Jose Santos Callejas was killed in Atlantida in a criminal assault related to his human rights activism. An investigation into his killing was pending at year's end (see Section 1.a).

In September 2002, 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 2002, 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. The NHRC was one of the organizations that received threats due to its stance on the anti-gang law.

*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.). It is illegal for an employer to discriminate against a worker based on disability, including HIV/AIDS status.

In September, Amnesty International reported that approximately 200 homosexual and transsexual workers were killed between 1991–2003. On July 15, two policemen allegedly shot and killed Eric David Yanez, a transgender member of the NGO San Pedro Sula's Gay Community. The investigation into his killing was pending at year's end.

*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 2000, the Pan-American Health Organization reported that 60 percent of women had been victims of domestic violence, and the U.N. Population Fund estimated that 8 of every 10 women suffered from domestic violence. The Ministry of Public Security reported that 3,430 cases of domestic violence and 275 rapes were reported to the police during the year. The Public Ministry reported that 743 cases of domestic violence and 93 cases of rape were tried during the year.

The Law Against Domestic Violence, intended to strengthen the rights of women and increase the penalties for crimes of domestic violence, 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. The Special Prosecutor for Women in the Public Ministry received approximately 30 complaints daily about domestic violence. Since 2002, more cases

have been 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 offered 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 are a majority of the population according to the National Statistics Institute, and make up approximately 36 percent of the work force according to 2001 estimates, 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, according to the National Statistics Institute. 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, which is against the law. Pregnant employees and new mothers for three months after the birth of their child have specific protections under labor law to prevent unjust firings (see Section 6.e.). Women are eligible for 4 weeks of paid maternity leave prior to the birth and 6 weeks of paid maternity leave after the birth.

The Government maintained a cabinet-level position directing the National Women's Institute, which develops women and gender policy.

*Children.*—Although the Government during the year allocated 26.9 percent of its total expenditures (including foreign assistance) to education (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 in 2002 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 in 2002. The average woman has approximately 4.7 years of primary education; the average man has approximately 4.9 years of primary education.

The Government allocated 16.2 percent of its total expenditures (including foreign assistance) to the health sector in 2003 (including salaries of doctors and medical workers). According to a 2001 national survey on epidemiology and family health, infant mortality (deaths under 1 year of age) was 34 per 1,000 live births, and child mortality (deaths under 5 years of age) was 45 per 1,000 live births. Of children age 1 to 5, 32.9 percent were malnourished.

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 in 2001. The Public Ministry reported that 205 cases of child abuse were tried during the year.

The commercial sexual exploitation of children is a serious problem, and child prostitution is a problem in tourist and border areas of the country. Casa Alianza estimated in December that there were approximately 8,335 children who are victims of some form of commercial sexual exploitation. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle during the year (see Section 6.f.).

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, and some are addicted to drugs, alcohol, and glue sniffing. 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 in 1998. The Tegucigalpa city administration runs 12 temporary shelters with a total capacity of 240 children. In December, Casa Alianza inaugurated a shelter for children who are victims of commercial sexual exploitation. The shelter was designed to expand efforts by Casa Alianza, which previously provided shelter to 160 children.

Abuse of youth and children in poor neighborhoods and in gangs is a serious problem. Both 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. Police were found to be responsible for some of the killings 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 2002. In April 2002, a court sentenced policeman Cesar Montoya to 6 years imprisonment for the 2000 killing of 17-year-old Edie Donaire. This was the first sentence imposed for the murder of a minor since tracking of the youth killings began in 1998. In September 2002, the courts sentenced a policeman to 24 years in prison for the 1995 rape and murder of a 14-year-old street child. 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; however, 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. In 2002, CODEH signed an agreement with the Ministry of Public Security to provide human rights training. CODEH also conducted human rights training with the military during the year.

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 2001, the National University began providing classes in Honduran Sign Language.

*Indigenous People.*—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 nonindigenous communities have criticized the government's exploitation of timber; however, government policy over natural resources changed in 2002 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.). In 2002, 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 killings. These cases were still pending at year's end. 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 killings of Lencas and Garifunas in conflicts over indigenous land claims.

In August, the IACHR recognized that the delivery of a final title deed for ancestral lands of the Sambo Creek Garifuna Community settled an IACHR petition filed by the Honduran Black People's Fraternal Organization.

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 leads to indigenous groups' attempting 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.

In 2002, the INA reduced its issuance of titles to indigenous groups because of lack of funds to compensate private owners and expected changes in land use laws. The 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, especially public sector unions, occasionally hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 8 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. The International Labor Organization (ILO) has 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, the requirement that trade union organizations must include more than 90 percent Honduran membership, the prohibition on foreign nationals holding union offices, the requirement that union officials must be employed in the economic activity of the business the union represents, and the restriction on unions in agricultural businesses with less than 10 employees.

The labor movement consists of three national labor confederations: the General Workers Central (CGT), the Confederation of Honduran Workers (CTH), and the United Confederation of Honduran Workers (CUTH). The CTH and the CUTH are affiliated with the International Conference of Free Trade Unions (ICFTU). The CGT is affiliated with the World Conference of Labor (WCL).

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. However, they are generally not seen by unions as a significant impediment to freedom of 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 are most vulnerable for being fired while forming unions, despite the fact that workers in the process of establishing a union cannot be unfairly dismissed once they have registered their intent to organize a union with the Ministry of Labor. Some foreign companies close operations when they are notified that workers seek union representation.

The Ministry of Labor can reach administrative decisions on allegations of unfair dismissal and fine companies, but only a court can order reinstatement of workers. 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. Cases referred to the judicial system begin at the Judge of First Instance, can then be appealed to a Court of Appeals, and finally can be appealed to the Supreme Court. There are Labor Courts for First Instance and Appeals in Tegucigalpa and San Pedro Sula (and a labor Judge of First Instance in La Ceiba); in other regions of the country regular Judges of First Instance and regular Courts of Appeals handle labor cases. The Ministry of Labor can issue an enforcement order if an employer does not abide by a reinstatement order by a court. Workers often accept dismissal with severance pay rather than wait for a court resolution due to the length of this process. Lack of effective reinstatement of workers is a serious problem.

Once a union is recognized, employers actually dismiss relatively few workers for union activity. Cases of firings and harassment serve to discourage workers else-

where from attempting to organize. The ILO has recommended that the Government provide 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 organizations 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 maquilas. A number of maquiladora workers who were fired for union activity have reported being hired for 1 or 2 weeks and then being let go with no explanation. Maquiladora employees have reported 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. In 2002 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. Once a union is registered, its board of directors has specific protections under the law to prevent illegal firings.

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. By law an employer must begin collective bargaining once workers establish a union; however, employers often refuse to bargain with a union. The Ministry of Labor can and has administratively sanctioned an employer for failing to negotiate, or for violating a collective bargaining agreement. In addition, a union can bring an employer to court for violating a collective bargaining agreement.

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 ILO has criticized the Civil Service Code's denial of 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. In addition, the law prohibits strikes in essential services and petroleum production, refining, transport, and distribution. The ILO has criticized the broad restriction on strikes in petroleum-related industries. The ILO noted that labor 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, rather than a simple majority; 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 and doctors and other medical workers in public hospitals went on strike on numerous occasions to demand additional salary raises or to protest proposed changes to civil service pay and benefits.

The same labor regulations apply in the export processing zones (EPZs) as in the rest of private industry, except that the law prohibits strikes. There are approximately 20 EPZs. Each EPZ provides space for between 4 and 10 companies. There are approximately 180 export-oriented assembly manufacturing firms located inside and outside EPZs. The Honduran Apparel Manufacturers Association (AHM) and worker representatives routinely meet to reduce potential tensions within the industry. At year's end, approximately 48 of the country's 180 maquiladora firms were unionized. Approximately 12 percent of the 118,000 maquiladora work force is unionized, according to May statistics from the Ministry of Labor.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Mem-

bers 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 has 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 strengthening regional offices to facilitate worker access to Ministry of Labor services, and by continuing 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 inspectorate office and an office for female workers.

There are 101 general labor inspectors, an increase from 95 in 2002. 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, the Ministry of Labor issued a legal notice that clarified the obligation of employers to grant access to labor inspectors.

The Government, private sector, and worker representatives participated in a regional program funded by an international donor to improve the right of freedom of association and collective bargaining throughout Central America. This program aimed to provide technical assistance and to strengthen the enforcement capabilities of the Central American labor ministries in these fields.

*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 64 percent of the work force in the maquiladora sector. Prison labor can be compulsory for convicted criminals.

*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 significant 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 under 14 years of age 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 effectively. An employer who legally hires a 14–15-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 14–15-year-old children each year. Minors are prohibited from working in undersea fishing or outside of the country’s borders. Minors 14–15 years old are allowed to work only 4 hours daily and 20 hours weekly; 16–17-year-olds can work 6 hours daily and 30 hours weekly. Minors can work only until 8:00 p.m.

The Ministry of Labor does not enforce effectively child labor laws outside the maquiladora sector. The Ministry’s effective enforcement of child labor laws in the maquiladora sector receives assistance from the self-policing of AHM members who in general do not hire employees under 18 years old. 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. The Government, the ILO, and NGOs estimated that 400,000 children work illegally. A 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 worked. 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 and sugarcane farms were exposed to pesticides and long hours.

There were isolated cases of the employment of children under the legal working age in the maquiladora sector. (Younger children sometimes obtain work permits by fraud or purchase forged permits.) In 2002, 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 worked at the plant.

The Government published its National Plan of Action for the Gradual and Progressive Eradication of Child Labor in 2001. In June 2001, the Honduran Private Business Council promoted a Declaration signed by the Ministry of Labor, the First Lady, and the ILO to eradicate immediately the worst forms of child labor. In September 2001, in collaboration with the Honduran Private Business Council, the Ministry of Labor implemented a campaign to increase industry awareness on the worst forms of child labor. Within the same year, the Legislative Assembly published specific regulations on child labor, which outline activities prohibited for children and adolescents and sanctions for employers who violate these rules and regulations.

In 2002, the Government swore in new members of the interagency National Commission for the Gradual and Progressive Eradication of Child Labor. In May 2002, the ILO International Program for the Eradication of Child Labor (IPEC) launched its programs focused on the eradication of the worst forms of child labor in melon and coffee production. ILO/IPEC also has programs combating the commercial sexual exploitation of children, children working as lobster divers, children working in the garbage dump of Tegucigalpa, and child domestic workers. In addition, an international donor funded a 1-year pilot project with an NGO to help provide education to children working or at risk of working in commercial agriculture. The Ministry of Education has developed an Education for All plan to increase access to preschool and primary education; improve the quality of preschool and primary education by encouraging new teaching methods, improving curriculum, and reducing drop-out rates, repetition, and desertion rates; and increase student achievement. In October, the Government signed a Memorandum of Understanding with representatives of the World Bank and other international donors to help the country reach its Education for All goals.

*e. Acceptable Conditions of Work.*—In March, minimum wages that were renegotiated by the Government, the private employers' association, and the three labor confederations went into effect for the year (backdated to January). The daily minimum wage scale is broken down by sector and by size of business: small (1–15 workers) and large (16 or more workers). The scale ranges from \$2.79 (48.85 lempiras) for workers in small agriculture to \$4.70 (82.3 lempiras) for workers in financial/insurance companies and workers in export-oriented businesses (including maquilas and commercial agriculture such as tobacco, coffee, bananas, and seafood). Workers in areas such as construction, services, mining, transportation, communication, etc., have minimum wages in between these two rates. The raise was approximately 12 percent for workers in small agriculture, but approximately 9 percent for most other workers. Inflation was approximately 8.1 percent in 2002.

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 2000 negotiated agreement on the minimum wage, the Government committed itself to establishing an Economic and Social Council where 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 2002, the Council was sworn in and it has been active on a number of issues.

The law prescribes a maximum 8-hour workday and a 44-hour workweek, equivalent to 48 hours' wages. There is a requirement of at least one 24-hour rest period for every 6 days of work. 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, training, and equipment from an international donor to improve its regulatory capacity. There are 14 occupational health and safety inspectors throughout the country. The informal sector, comprising more than 52 percent of all employment according to the Ministry of Labor, 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.

*f. Trafficking in Persons.*—The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. There is no comprehensive anti-trafficking law, but assorted penal, child exploitation and immigration statutes criminalize trafficking and enable the Government to prosecute traffickers. 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 (DGPM), is responsible for enforcing the country's immigration laws although the DGPM does not have arrest powers. Many of the government's anti-trafficking measures are conducted in the context of combating the illegal movement of migrants. Corruption, a lack of resources, and weak police, Public Ministry, and court systems hinder law enforcement efforts. While traffickers have been arrested, the Government has not prosecuted any cases. In 2002, the Government arrested and prosecuted eight "coyotes," some of whom were smuggling minors, but it was unclear if any of these cases involved trafficking. Corruption is a serious problem and renders obtaining court convictions difficult. Some officials have been investigated and dismissed for corruption. The Immigration Director fired 35–40 officers for corruption in 2002. The Frontier Police have worked with an international donor to construct a border control inspection facility that is used against traffickers.

Honduras is a source and transit country for trafficking for sexual and labor exploitation. Most victims are young women and girls, who are trafficked to Guatemala, Belize, El Salvador, Mexico, the United States, and Canada. Women and children are trafficked internally, most often from rural to urban settings. An April 2002 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. Honduran authorities participated in law enforcement investigations that led to several convictions in the United States.

Reports from Casa Alianza in 2000 asserted that approximately 250 Honduran children in Canada were coerced into prostitution or the sale of illicit narcotics. Canadian authorities cooperated with Honduras during the year to identify and repatriate the minors. 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. According to a local children's rights group, 408 children have been reported missing from 1990 to February.

The commercial sexual exploitation of children is a serious problem, and child prostitution is a problem in tourist and border areas of the country. Casa Alianza estimated in December that there were approximately 8,335 children who are victims of some form of commercial sexual exploitation. The Government and NGOs held seminars on the prevention and eradication of the commercial sexual exploitation of children and trafficking in women and children in Tegucigalpa, La Ceiba, and Valle during the year.

The Government, in conjunction with UNICEF, has begun a public information campaign against trafficking and commercial sexual exploitation, and it has tried to raise awareness of children and women's rights and risks associated with illegal migration. Casa Alianza has also launched a public information campaign against commercial sexual exploitation of children. A national commission attempts to combat child labor abuses and seeks to reincorporate working minors into educational programs. Several government agencies, international organizations, and NGOs have developed a national plan against the sexual exploitation of children, (see Section 5).

The Government does not provide any assistance to foreign victims of trafficking, nor does it provide funding for NGOs helping victims; however, while constrained by a lack of financial resources, government officials work closely with NGOs in several areas. The government worked with ILO/IPEC and NGOs to provide training

to the press on trafficking in persons. In 2000 the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in the country. The centers' activities continued during the year, with the assistance of several international organizations. Consular officials are aware of trafficking issues when abroad. The International Organization for Migration received assistance from an international donor to build a shelter for third country illegal immigrants pending deportation to their home countries.

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## JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties, the People's National Party (PNP) and the Jamaica Labour Party (JLP), have alternated in power since the first elections under universal adult suffrage in 1944. In the October 2002 general elections, Prime Minister P.J. Patterson's PNP won 24 of the 60 seats in Parliament. In the June 19 local elections, the opposition JLP won 12 out of 13 parish councils. The judiciary is 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 Defence 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 economy grew by an estimated 2 percent during the year, compared with 1 percent in 2002. There remains 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 unlawful killings. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. 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, while treatment of members of the Rastafarian religion improved. Violence against individuals suspected or known to be homosexuals occurred, as did violence and discrimination against persons living with HIV/AIDS. Child labor was a problem, as was trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reportedly eight politically motivated killings during the year, committed by supporters of various political factions. The police committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects. There were 127 deaths, including those of 13 police officers, during police encounters with criminals, compared with 147, including 16 police, in 2002. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 37 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.

In October, the U.N. Commission on Human Rights released the report of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, which

stated that the country had an unacceptably high number of questionable police shootings and should hold more policemen accountable for their actions.

On May 7, members of the JCF's Crime Management Unit (CMU) killed two men and two women at a home in Crawle, Clarendon. The JCF officers involved claimed that they returned fire after someone in the home shot at them; however, witnesses to the incident disputed this claim. These allegations led to the disbanding of the CMU and the reassignment of its Senior Superintendent to a desk job. The JCF Commissioner requested foreign assistance in investigating the incident. London's Metropolitan Police Service sent detectives to investigate. On October 30, they submitted a report to the Department of Public Prosecutions (DPP), where it remained at year's end.

In November, police fatally shot two elderly men and wounded a woman in the community of Flankers, St. James. The Commissioner of Police and the Minister of National Security later apologized to the community for the incident. The police presented their findings to the DPP, where the case remained at year's end.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police (see Section 1.d.).

In July 2002, police shot and killed 7-year-old Romaine Edwards during what police said was a shoot-out with gang members in Lawrence Tavern, St. Andrew. On March 21, the Bureau of Special Investigations (BSI) submitted the case file to the DPP, where it remained at year's end.

In the case of the November 2002 police killing of Daemon Roache, the BSI was still preparing it for referral to the DPP at year's end.

During the year, at least five detainees died while in police lockups; some of the deaths involved negligence (see Section 1.c.).

On June 16, the judge presiding over the trial of the police officer charged with the 2001 murder of Dave Steele discharged the jury members after the jury foreman reportedly was seen conversing with a lawyer who was observing the proceedings on behalf of Steele's family. Although the trial was rescheduled for October, it had not resumed as of year's end.

On March 14, 2 years after the CMU shot and killed seven youths in Braeton, St. Catherine parish, Amnesty International (AI) issued a report of its own investigation into the incident, with the assistance of an independent U.K. firearms expert, stating that it found new evidence that supported the ongoing investigation of the case by the DPP. The authorities brought charges against six police officers, and their trial was expected to begin in mid-2004.

In August, the coroner's court found that the security forces were not "criminally responsible" for the 2001 death of Andrew Stephens, a JLP "don" (gang leader), which reportedly occurred in a shoot-out with police.

In May, a three-member panel of Supreme Court judges ruled that the case against the police involved in the 1999 death of Patrick Genius was insufficient for further investigation.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 19 vigilante killings during the year, the motives for which varied—some victims were targeted, while others were the result of spontaneous mob action. On March 14, the body of an accused car thief, Ricardo Anglin, was found in a cesspool at the University of Technology where he tried to escape an angry mob. Reports indicated that the mob set fire to the grass surrounding the cesspool to prevent Anglin from escaping, and he later drowned. 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.

At year's end, the case involving accusations of police use of excessive force against demonstrators protesting the 2001 demolition of 17 squatters' homes was still pending with the DPP.

In April 2002, the DPP ruled that two police officers should be charged with wounding with intent and malicious destruction of property for a 2000 incident in which police fired on a minibus when the driver failed to stop at a roadblock. The case was still 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. The new Ho-

rizon Remand Center, placed under JDF control in 2002, received prisoners, which relieved some overcrowding. However, due to construction problems and staffing shortages, the facility could not receive its full capacity of 1,026 prisoners. At year's end, the Remand Center held only 500 inmates and had a skeleton staff supplemented by JCF and JDF personnel. In July, the Ministry of Health ordered the removal of approximately 65 inmates from the Spanish Town lockup due to problems with the facility's sewage system.

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 beatings by guards.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles were held with adults. On July 16, Jamaicans for Justice, a local human rights nongovernmental organization (NGO), released a report citing incidences of rape, statutory rape, beatings, use of physical restraints, and harsh punishment against children housed in state-run "places of safety."

In January, the U.K. Privy Council upheld a 2000 Court of Appeals ruling that it was unconstitutional for juveniles to be held "at the Governor General's pleasure."

At year's end, the proceedings brought by the Public Defender seeking compensation from the Government for a prisoner who died in March 2002 at Mandeville police station as a result of being beaten by other prisoners were still pending.

At year's end, two 2002 cases of prisoners in Bull Bay and Manchester police lockups who died in police custody were still under investigation.

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, particularly those from poor neighborhoods, without bringing them before a judge within the prescribed period.

Human rights organizations were satisfied with the progress of the policy requiring that each new case involving detention of persons deemed "unfit to plead" for reasons of mental illness be brought to the court's attention once per month.

The Jamaica Constabulary Force falls under the direction of the Ministry of National Security. It is headed by a Commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Generally, the JCF was effective, although corruption and impunity were problems. In June, the Government dismantled the controversial police Crime Management Unit after another incident in which citizens were killed by police during an alleged shootout (see Section 1 a.).

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 29 investigators, specifically addresses police shootings. The BSI completed investigations of 37 of 323 shooting incidents during the year and sent them to the DPP. The DPP ruled on 10 cases and sent 3 to criminal courts. One officer was found criminally liable. The BSI supplemented the JCF Office of Professional Responsibility, 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 12 investigators.

On December 8, the JCF Commissioner signed a memorandum of understanding with police officers' representatives that outlined a new policy statement on human rights and police use of force and firearms. The statement incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

The JCF continued an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. 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. Part of the test involved 1,000 coloring books, depicting human rights and corresponding responsibilities, distributed to two primary schools in the Kingston area.

In September, over a year after the Privy Council overturned Randall Dixon's 1996 conviction for murder and returned his case to the Appeals Court to determine

whether he should be freed or retried, the Appeals Court ordered his release. Prison officials hampered earlier attempts to remove Dixon from death row and return him to the general prison population. Dixon was originally convicted on the word of a police officer who picked him out of a lineup, even though two other witnesses at the scene of the crime failed to identify him.

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.

The law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them.

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, and the Government generally respected this provision 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 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 have 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 judiciary's lack of sufficient staff and resources hindered due process, and the BSI also was faced with a large backlog. On June 30, 22 state prosecutors refused to work for 3 days in an effort to improve their working conditions. 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 Supreme Court began using mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The Resident Magistrate Courts also used alternative dispute resolution in limited cases.

Defendants have the right to counsel. 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; however, funds were insufficient to meet the demand, and attorneys sometimes requested payment from clients.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution prohibits such actions; however, the revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure. 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.

The 2000 case of three persons accused of wiretapping telephones without proper authorization remained pending at year's end.

#### *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. Security personnel generally acted with restraint during public demonstrations.

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. In February, the Public Defender's office won a case in the Constitutional Court that gained government recognition of the religion. The Constitutional Court allowed clergy of the Church of Haile Selassie I to visit and worship with prisoners in prison chapels and to perform baptism and marriage ceremonies. The law continues to prohibit the use of marijuana as a sacrament of worship.

For a more detailed discussion, see the 2003 International Religious Freedom report.

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

There was no specific implementing legislation providing for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government established an interagency committee and formal procedures to review claims to refugee status. As of December 18, there were 18 pending claims for asylum.

### *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 have 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 June 19 local elections were less violent than previous elections. There were few 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. Since the October 2002 general elections, the PNP holds 34 of the 60 seats in Parliament. In the June elections, the opposition JLP won 12 of the 13 parish councils.

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.

There were no legal restrictions on the participation of women in politics. Women held approximately 8 percent of all political offices and 30 percent of the senior civil service positions. Three of the 17 cabinet members were women.

### *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, and government officials generally were cooperative and responsive to their views.

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice, created in 1999 in response to concerns about police impunity, focused on the issues of extrajudicial killing and excessive use of force by the police and wrote a weekly newspaper column. Jamaicans for Justice reported that undercover police regularly attended its meetings; nevertheless, the group professed to have a cordial relationship with the police and sat on two of the police consultative boards.

In February, representatives of several local NGOs concerned with police abuse were denied entry to a press conference given by Asma Jahongir, the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions.

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, which was 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 began working on an overall anti-discrimination bill, which would create an Anti-Discrimination Commission to make decisions about grievances. The Public Defender also sought compensation for the families of victims killed during the 2001 shoot-out in Tivoli Gardens, West Kingston between members of the community, the JCF, and the JDF. A class-action lawsuit was pending at year's end.

On March 31, the Government launched the Corruption Prevention Commission, a governmental body with responsibility to investigate allegations of acts of corruption committed by public officials. In addition, the commission requires certain categories of public servants, including all police and military personnel, those working in customs, immigration and revenue collection, and officials making over approximately \$34,000 (J\$2 million) per year, to file annual asset declarations. Under the law, individuals who do not file their declarations or who are found guilty of committing an act of corruption will face fines or imprisonment.

*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, particularly in the garrison communities (see Section 3).

The Jamaica Forum for Lesbians, All Sexuals, and Gays continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of gay patients by hospital and prison staff, and targeted shootings of homosexuals. During the year, the United Kingdom granted one gay Jamaican asylum based on his fear of persecution, and other such asylum applications reportedly were pending. Individuals committed acts of violence against suspected homosexuals; for example, in July three men chased a homosexual into a restaurant and began beating him. When the restaurant's security guard discovered that the man was homosexual, he joined the other men in the beating. The homosexual man freed himself and locked himself in the employee bathroom until the police arrived. Although the police took a report, they did not follow up or arrest anyone in relation to the incident.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws provide protection against discrimination for persons living with HIV/AIDS. Human rights NGOs reported severe stigma and discrimination for this group. Although supplies of universal precautions were adequate in health care facilities, health care workers neglected patients with HIV/AIDS.

*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 increased by 2 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. However, the Act only covers relationships maintained in the same household. Couples who reside in separate domiciles are not covered under this act. Breaching a restraining order is punishable by a fine of up to approximately \$200 (J\$10,000) and 6 months' imprisonment.



In January, a court gave a suspended sentence to a man in Montego Bay charged with beating his girlfriend so severely that she was blinded in one eye, and it ordered him to pay the woman's medical bills as compensation. The judge found that the man was "obviously a good and just man" because he was married with three children. The girlfriend's reputation was a mitigating circumstance in the judge's decision.

In March, a woman in Kingston freed herself from a room where her partner had held her captive for many years. She showed scars and signs of years of physical abuse and starvation. Police investigators questioned the community about the situation. Neighbors admitted that they knew about the abuse, but they were afraid to report it to the police for fear of retribution by her partner. The man accused of the abuse was still at large at year's end.

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, but 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 32 laws for gender bias and forwarded its recommendations to Parliament.

There was an active community of women's rights groups. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

*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.

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 gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 274 cases of statutory rape—sex with girls under 16—reported through September 21, a 23 percent increase over the same period in 2002. The Government expressed concern about child abuse and admitted that incidents were underreported.

Child prostitution was a problem (see Section 6.f.). Reports indicated that children were being trafficked within the country for the purposes of sexual exploitation. The Government pledged to address this problem and worked in conjunction with the International Labor Organization (ILO) International Program for the Elimination of Child Labor (IPEC). The ILO/IPEC office planned to release the findings of a survey on child labor in early 2004.

In April, the Government created the Child Development Agency (CDA) under the Ministry of Health, which combines services previously provided by the Children's Services Division, the Adoption Board, and the Child Support Division. The Agency's main objectives include advocating for children's rights, facilitating the best use of resources, improving the welfare of all children in need, and strengthening monitoring mechanisms under its control. In November, the CDA launched an action plan for orphans and other children made vulnerable by HIV/AIDS.

In July, Jamaicans for Justice issued a highly critical report about the conditions of private and state-run children's homes and places of safety, which fell under the CDA's responsibility upon its creation. The report indicated that rape, statutory rape, beatings, physical restraints and harsh punishments occurred frequently in these facilities. The Ministry of Health and the CDA pledged to address these problems, and the CDA instituted new policies and procedures to manage critical incidents in child care facilities.

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.

*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.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions functioned 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. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits, a practice that is considered legal as long as workers receive severance pay. The LRIDA prohibits anti-union discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Trade unions could and did affiliate with 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 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 October, 300 workers at 12 branches of a bank went on strike over pay disputes.

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 performed 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, other than child prostitution (see Section 5).

*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).

In October, the Government ratified ILO Conventions 138 and 182, which address the minimum age for labor and the worst forms of child labor. In 2002, the Government established a National Steering Committee for the Protection of Children in conjunction with the ILO/IPEC, which was mapping out a "master strategy" to deal with child labor. As part of this, 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 conducted various assessments of the problem; the results of a child labor survey were being compiled at year's end.

*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, mainly through factory inspections. 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. Trafficking in children was a problem; a 2000 ILO study found child prostitution, involving girls as young as 10 years old, to be widespread in all parts of the country. The Government took steps to address these children in need (see Section 5).

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## 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. In July, during federal elections to select members of Congress the PRI gained 12 seats in the Chamber of Deputies, giving it 223 of the 500 seats. The National Action Party (PAN) came in a distant second with 154 seats, down from its previous total of 205 seats. On the whole, the elections were judged fair and free by observers. 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 were 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. Elected civilian officials maintained effective control over the police and the military; however, corruption was widespread within police ranks and also was a problem in the military. There have also been instances of state and local police involvement in kidnappings and extortion. 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 to show tentative signs of recovery. Gross domestic product in this period grew at an annualized rate of 1.5 percent, according to official estimates at year's end, after 0.9 percent growth in 2002. Leading exports included petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. Tourism and remittances from citizens living abroad were respectively the second and third largest earners of foreign exchange after petroleum. In June, manufacturing exports picked up for the first time since they started to weaken in 2001. Average manufacturing wages increased by 1.7 percent during 2002, much less than the 5.2 percent rate of inflation in the same period, and less than the government's target rate of 4.5 percent. An estimated 25 percent of the population resided in rural areas where subsistence agriculture is common. Income distribution remained skewed: in 2000, the top 10 percent of the population earned 37.8 percent of total income, while the bottom 20 percent earned only 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, Chiapas and Oaxaca, a poor climate of respect for human rights presented special concern. State law enforcement officials 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. Alleged police involvement, especially at the state level, 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. During the year, judicial reforms began to take effect; however, lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. Indigenous people's access to the justice system continued to be inadequate. The authorities on occasion violated citizens' privacy. Human rights groups reported that armed civilian groups in the state of Chiapas continued to commit human rights abuses. Zapatista National Liberation Army (EZLN) sympathizers continued to denounce increased military presence in Chiapas as well as the increasing activity of armed civilian groups. Journalists, particularly in the northern states, practiced self-censorship in response to threats from narcotics traffickers. Corrupt members of the police sometimes violated the rights of illegal immigrants. Human rights workers continued to be subjected to attacks and harassment; however, reports of such attacks diminished. 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 worker 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.

The Government appeared to stall in its attempt to improve the domestic human rights situation, with a few exceptions.

The peace process remained stalled at year's end. The break in contacts between the Government and the EZLN, that occurred when Zapatistas rejected the Law on Indigenous Culture and Rights passed in 2001 as a watered-down version of the San Andres Accords, continued during the year. In August, the Government called for a resumption of the dialogue. Conditions such as poverty and inequality that gave rise to the armed conflict in 1994 persisted. Sporadic outbursts of politically motivated violence continued to occur throughout the country, particularly in the southern states of Chiapas, Guerrero, and Oaxaca.

In July, the Attorney General's office (PGR) restructured its organization to elevate the director of the human rights office in the PGR to a Deputy Attorney General. On August 11, the Secretariat of Foreign Relations (SRE) announced that the Under-Secretariat for Human Rights and Democracy would be eliminated as of September 1, which domestic and international human rights organizations viewed as reflective of a diminishing interest in a human rights agenda by the Government. On December 8, the Office of the U.N. High Commissioner for Human Rights presented the President with an analysis of the human rights situation in the country. President Fox commissioned the study in 2000, and upon its receipt promised to implement its 32 recommendations.

On March 25, Amnesty International (AI) published a report that accused all branches of the security forces of using torture. In July, Human Rights Watch released a report that criticized PGR's Special Prosecutor for Investigating Human Rights Abuses Against Social and Political Movements of the Past (FEMOSPP) for its lack of results in investigating human rights abuses of the 1960s, 1970s, and 1980s. The report also criticized the Fox administration for not providing the office the support needed to carry out its mandate. On August 11, AI released a report on the federal, state and municipal governments' failure to achieve progress in solving the killings of women in Ciudad Juarez over the past 10 years.

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 political killings. Members of the federal and state police, as well as military personnel, were accused of committing killings during the year.

Police were accused of killing 22-year-old Fernando Garcia Morales on January 11, during an operation against "street racers" in Tulancingo, Hidalgo. Margarito Escamilla Asian, Juan Rubio Juarez, Ricardo Moreno Hernandez, and Claudio Lopez Perez, all police officers assigned to the Tulancingo region, were arrested for killing Garcia. The officers stated that Garcia Morales "accelerated the vehicle he was driving and tried to run them over."

On August 23, agents of the Guerrero State Judicial Police arrested Jesus Hernandez Miranda and Raymundo Lorenzo Leyva, members of the Acapulco Municipal Preventive Police, for the August 20 killing of Jose Manuel Rodriguez del Castillo, a hotel cashier.

On July 12, agents of the Chiapas state Attorney General's Office PGJE accused Andres Vidales Segovia, a soldier assigned to the 31 Military Zone in Chiapas, and three others, of killing Abelino Encino Guzman, an indigenous Tzeltal on July 10 in Tenejapa, Chiapas. The investigation into the death continued at year's end.

In March, a federal court determined that the March 2002 death of Guillermo Velez Mendoza at the hands of Federal Investigative Agent Hugo Armando Muro Arellano was accidental. The court revoked the arrest order for homicide against Muro Arellano. The authorities continued to investigate him for improper detention and dereliction of duty at year's end.

On August 4, the Federal District Commission on Human Rights (CDHDF), although unable to determine the cause of death with certainty, concluded that in 2002 the State Public Security police (SSP) police violated the rights of Jose Gabriel Martinez Romero when they inflicted severe injuries on his person while in custody.

The criminal charges against Sergio Martinez Acosta, Juan Manuel Gutierrez Navarro, Juan Cruz Rosales, and Jorge Julio Estupinon de la Rosa for abuse of authority, torture, and homicide the 2002 death of Francisco Medellin Alberto were still pending before courts in the state of Nuevo Leon at year's end.

In 2002, the Nuevo Leon State Human Rights Commission conducted a preliminary investigation into the death of Roberto Carlos Mendoza, and then referred the case to the National Commission for Human Rights (CNDH) since the agents involved were members of the PGR, a federal entity. There was no further information available at year's end.

There were no developments in the June 2002 shooting of Jesus Ulises Cruz Banda by Mexico City police.

In 2002, criminal charges for homicide were filed against 14 defendants in the 2002 massacre of peasant farmers near Agua Fria, Oaxaca. Charges were still pending against seven of them. The remaining accused persons were released. Two other persons implicated in the incident, who were minors, were detained but later released as wards under the custody of the state. The investigation remained open at year's end. On March 1, Samuel Alfonso Castellanos Pinon, attorney for the defendants, received an anonymous death threat if he did not stop defending the accused. According to AI, that evening Castellanos noticed unknown persons, with obvious weapons, followed him home.

On July 19, the Mexico City's Attorney General's office (PGJDF) Special Prosecutor assigned to investigate the 2001 death of human rights activist Digna Ochoa announced that she had committed suicide (see Section 4).

There were no developments in the July 2001 killing of Everardo Obregon Sosa. On November 10, a final hearing was held in the case against Vicente Pena Zuniga, Efrain Cruz Bruno, and Nicasio Bernardino Gomez for the 2001 killing of Fidel Bautista Mejia in Putla, Oaxaca. The final verdict was pending at year's end.

There were no developments in the case against military personnel for the 2001 killings of Esteban Martinez Rosario and Rodrigo Torres Silvain.

There were no developments in the 2001 abduction and killing of Raul Varela Meza, Juan Antonio Chavez, Eduardo Ramirez, and Lorenzo Barraza in Ciudad Juarez, Chihuahua.

There were at least two deaths in prison, one in Sinaloa and one in Nuevo Laredo, Tamaulipas state.

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 increased. In August, local press reported that there had been 177 killings in Tijuana, Baja California since January. The press also reported in September that there had been at least 56 killings during the year in Nuevo Laredo. At least 36 of the killings were associated with drug trafficking. Between January and August 31, 24 killings with presumed or proven drug connections occurred in the Ciudad Juarez area.

There were several instances in which members of security forces have been apprehended for working for or with narcotics traffickers.

There were no developments in the 2001 killing of 12 persons in the town of El Limoncito, Sinaloa.

In May, the CNDH stated that it would present to the Federal Government evidence of irregularities in the investigation into the 1997 killing of 45 persons in Acteal, Chiapas. These irregularities included the obtaining of statements in Spanish from accused individuals who did not speak the language and were never provided translators, and shell casings collected at the scene that did not match weapons confiscated and supposedly used in the killings.

In February, attorneys in the suicide case of Air Force Lieutenant Jose Raul Vargas Cortez, which was reopened in 2002 by the Attorney General of Military Justice, announced that military officials covered up details surrounding the death of Vargas. Investigations continued at year's end to determine if Vargas was murdered.

In May, members of the Supreme Court (SCJN) analyzed the possibility of having the PGR reopen the 1995 case of the massacre of 17 indigenous farmers in Aguas Blancas. Former Guerrero state governor Ruben Figueroa Alcocer was implicated in the case.

The CNDH received 281 complaints against members of the military between March 2002 and July, including unlawful killings and excessive use of force. The CNDH also reported that within the same timeframe it had given 61 seminars on human rights to 15,724 members of the Armed Forces, including 1,200 flag officers. In addition, 12 military instructors have been trained to teach human rights courses.

There were no developments in the investigation into the 2001 killings of two federal judges in Mazatlan, Sinaloa state.

There were incidents of vigilante justice, and at least four occasions in which authorities prevented such incidents. However, on March 17, residents of Tlayecac, in Morelos state, lynched 21-year-old Mariano Garcia Escamilla, accused of cattle rustling in 2000. Garcia had been banned from the community since 2000 and was hung from a tree when he reappeared in the community. Investigations were ongoing at year's end.

*b. Disappearance.*—There were two credible reports of disappearances. There were various cases of disappearances in Ciudad Juarez; however, none had been linked to state actors.

On April 27, Marcelino Santiago Pacheco, leader of the Organization of Indigenous Zapotec People (OPIZ), disappeared, according to the Association of Families of Victims of Human Rights Violations and Disappeared of Mexico (AFADEM). On June 25, his brother Anselmo Santiago Pacheco, who took over leadership of OPIZ, also disappeared. Elements of the state Judicial Police (PJE) previously abducted Marcelino in 1997, and he reappeared in custody 8 months later charged with illegal possession of firearms only to be acquitted in judicial proceedings.

On July 3, Human Rights NGOs brought the 2002 disappearance case of Jesus Angel Gutierrez Olvera before the Inter-American Human Rights Commission. Gutierrez Olvera was last seen in police custody in March 2002.

On January 27, the judge in the case of the 2001 disappearance of Faustino Jimenez Alvarez, in Guerrero, ordered arrest warrants issued for Raul and Arturo Valle Alvarez, who together with state Attorney General's office officials, were accused of kidnapping. The two were fugitives from justice, while an investigation into the disappearance continued at year's end.

On April 21, Ignacio Carrillo Prieto, the Special Prosecutor investigating disappearances and human rights abuses during the "Dirty War" of the 1960s and 1970s requested arrest warrants against Miguel Nazar Haro and Luis de la Barra

Moreno, former directors of the Federal Security Directorate (DFS) during the 1970s, and Carlos Solana, former head of the Judicial Police, charged with violating the civil rights of student leader Jesus Piedra Ibarra in 1975. However, on April 22, a state judge in Nuevo Leon ruled that statute of limitations for the crimes contained in the first cases submitted by the FEMOSPP had expired, therefore no arrest warrants could be issued against the accused. On November 5, the Supreme Court ruled that the statute of limitations on abduction does not begin to run if the victim's body remains missing, which allowed for trials in these cases. In late November, the special prosecutor issued an arrest warrant for Isidro Galeana, a former Guerrero police commander, accused of kidnapping a leftist teacher in 1974. At year's end, Galeana was a fugitive. In late November, unidentified persons killed Horacio Zacarias Barrientos, a peasant who had helped build 11 cases and was to testify against former federal officials in a "dirty war" case, in the city of Chilpancingo, Guerrero. On December 5, the Government issued arrest warrants for two former secret police chiefs, Miguel Nazar Haro and Luis de la Barreda Moreno, who were suspected of having directed the arrest, torture, and disappearance of Jesus Piedra, and for Juventino Romero Cisneros, a Nuevo Leon state police official who testified to having participated in the abduction of Piedra from a Monterrey street corner.

In July, HRW published a report that examined the causes of a perceived lack of progress by the special prosecutor. The report identified three reasons; limited resources, limited access to government documents, and limited military cooperation. HRW recommended that resources and training be expanded for the investigators and prosecutors, that declassified documents be made readily available to the prosecutor's office and the general public, that military officials provide all requested information and cease to assert jurisdiction over cases under investigation, and that information gathered by the Prosecutor's office regarding past human rights abuses be disseminated to the public. On November 26, HRW noted that some of the abuses mentioned in its previous report had been addressed, and it commended the Supreme Court for its decision on the statute of limitations.

The military justice trial of Generals Francisco Quiroz Hermosillo and Arturo Acosta Chaparro, implicated in the death or disappearance of 143 persons during the 1970s, continued during the year. However, in March, the Supreme Military Tribunal ruled that Quiroz and Acosta could only be processed for the deaths of 22 persons.

In February, the Attorney General's office reported that there were 106 kidnappings for ransom during the period from 2001-02.

*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. Many victims were afraid to report or follow through on complaints against the police, thereby hampering prosecution of the perpetrators. In January, human rights organizations claimed that Victor Garcia Uribe and Gustavo Gonzalez Meza confessed under torture by hooded policemen to killing eight women in Ciudad Juarez. The human rights organizations demanded their release. Gonzalez Mesa died in prison in February. In late October, the president of the Chihuahua Supreme Court announced that by late November he would issue his decision regarding all of the suspects arrested for involvement in the alleged serial killings; however, no decision was reported at year's end.

In February, the CNDH in its annual report to Congress noted that it had received 19 complaints of torture during 2002, twice the 9 received in 2001.

On March 25, AI published a report that accused all branches of the security forces of using torture. After detailing the defects in the police/judicial system that enable the use of torture, the report recommended that the Government condemn torture, reform national legislation to forbid torture, end the practice of arbitrary detentions, and admit only those confessions that are made in front of a judge and a qualified defense lawyer. Other recommendations concern the Public Ministry, police, and judicial changes. In June, Amnesty repeated the same charges regarding the use of torture.

During the year, the Baja California (BC) State Human Rights Office denounced the February 4 torture of 13 migrants by elements of the military in the Rumorosa zone. The victims said members of the military kicked them and placed plastic bags

over their heads to force them to confess to migrant trafficking. The case was turned over to the CNDH, which has jurisdiction over violations committed by federal entities.

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 linked torture to the prevalence of arbitrary detention and claimed 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 extracting confessions from them by force.

On January 23, Mexico City police arrested 18-year-old Nadia Ernestina Zepeda Molina and charged her with selling drugs. Zepeda complained that the police had sexually molested her and tried to rape her, and then beat her when she tried to defend herself. In August, 32 human rights organizations in the country called for her release. The human rights organizations charged the police with discrimination, abuse of authority, and violence against a woman. They demanded that the Government adhere to the U.N. Convention to Eliminate All Types of Discrimination Against Women and the Americas Convention to Prevent, Punish and Eradicate Violence Against Women.

In April, the Journal of the American Medical Association published an investigation by Michele Heisler, which concluded that torture continued to be a serious problem in the country. Physicians conducted medical evaluations of 13,000 federal detainees, and estimated they had documented evidence of torture in up to 1,090 cases.

The CNDH reported that its recommendation to the PGR regarding the 2001 torture of Norberto Jesus Suarez Gomez in Chihuahua had been satisfied. There were no further developments in the case during the year.

There was no progress in the case of 17-year-old Valentina Rosendo Cantu, allegedly raped by members of the 41st Infantry Battalion in February 2002 when she was washing clothes by a creek. According to reports, the CNDH could not verify the accusation because the incident was reported late, and when Rosendo was examined, no evidence of the rape remained. The human rights NGO following the case will bring the case before the Inter-American Human Rights Commission since all legal recourse within the country's judicial system had been exhausted.

Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

On March 16, 16-year-old Viviana Rayas disappeared from her parent's home in Chihuahua City. On May 29, the Chihuahua daily *El Herald* quoted a Chihuahua state police spokesman who stated that human remains found on the outskirts of town were those of a 35- to 40-year-old woman. Frustrated at the Chihuahua State Police's inability to solve his daughter's disappearance, on May 30, Viviana's father and powerful union leader Jose Cirilo Rayas threatened to paralyze Chihuahua state construction projects if his daughter was not found soon. Days later, the police changed their story and enlisted a government dentist to claim that the remains were those of 16-year-old Viviana's. Within days, the police arrested foreign resident Cynthia Kiecker, her husband Ulises Perzabal, and three friends of the couple, who all alleged that they were tortured physically and psychologically to extract false testimony regarding the murder of the young girl. Kiecker alleged that the police put a bag over her head, showered her with water, and tortured her repeatedly with electric shocks. She said she was forced to participate in a videotaped confession to the murder. All five later recanted their statements. As of September, hearings in this case continued in the First Penal State court in Chihuahua City, and Kiecker remained in prison. The Chihuahua state government had taken no substantive action to address allegations of torture by its police officers.

At year's end, one of the bus drivers accused of the 2001 murder of eight young women in Ciudad Juarez remained in prison pending sentencing. In February, the other accused driver died under suspicious circumstances in his prison cell. Authorities initially said he had died after complications from a recent hernia operation, but later stated that he had died of a heart attack (see Section 5).

Prison conditions remained poor. Many prisons are staffed by undertrained and corrupt guards. Prisoners complained 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 in some of these areas.

On June 14, a 20-year-old unidentified male claimed that another inmate at the Aldama police station in Ciudad Juarez had robbed and raped him. An investigation by the Internal Affairs division of the municipal police to determine the responsibility of the guards was ongoing at year's end.

The penal system consists of 448 facilities: 5 federal penitentiaries, 8 federal district prisons, 336 state prisons, and 99 municipal and regional jails. 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 press reports, the country's 448 penal facilities were overpopulated by approximately 19 percent; 175,253 prisoners were being held in facilities that have a capacity of 141,790 prisoners. Mexico City's Varonil Norte prison has the capacity to hold 4,892 prisoners; however, it held 8,335; Varonil Oriente's capacity is 4,766 with an actual population of 7,927; Varonil Sur's capacity is 2,998 with an actual population of 4,181; Femenil Oriente's capacity is 156 with an actual population of 526; Femenil Norte's capacity is 200 with an actual population of 468. The prison population in Ciudad Juarez is 4,100. Construction on the new prison has experienced delays. Originally scheduled for completion in 2000, a part of the prison may be complete and ready to hold approximately 800 to 1,000 federal prisoners by early 2004. Approximately 160 juvenile detainees who were scheduled to move to a new facility in the fall of 2002 were expected to move in December, with administrative operations moving there in early 2004 and full operations by April.

On March 8, La Loma 1 prison in Nuevo Laredo placed 160 prisoners in a 2-room area (13 by 16 feet) for processing. Severe overcrowding, along with an almost total lack of sanitation facilities and limited windows to allow for ventilation, caused several inmates to become unconscious and one to die from asphyxiation.

Health and sanitary conditions are poor, especially in rural poorer states such as Michoacan and Chiapas. Often prisoners must pay for their own prescription medicine. According to the CNDH, most prisons do not have any facilities for treating those requiring psychiatric care.

Female prisoners are held separately from men. Women make up approximately 4.6 percent or approximately 8,000 of the total prison population. Of the 448 prison facilities in the country, 230 of them house female prisoners.

There were 27 pregnant women in prison in Mexico City, and during the year, there had been 29 births in Mexico City prisons.

In May, the CNDH announced the results of a study that revealed the vulnerability of more than 8,000 female prisoners across the country. The study found that female inmates across the country engage in prostitution under the direction of inmates and with the acquiescence of prison officials. It singled out the prisons in Tijuana, Baja California; Torreon, Coahuila; Juchitan and Etla in Oaxaca; San Cristobal de las Casas, Chiapas; and Morelia and Uruapan in Michoacan as having the most serious problems.

A new prison for men in Mexico City was completed in March. The prison has the capacity to house 2,364 inmates, thereby alleviating some of the prison overcrowding in the Federal District.

Juveniles are held separately from adults.

In July, the CNDH reported that it had detected serious violations of basic rights in the majority of 54 juvenile reformatories in the country. The violations included overpopulation, physical abuse and mistreatment, and dormitories with metallic mesh that resemble cages. The CNDH found that the worst centers were located in Chiapas, followed by those in Veracruz. In Sonora, minors had to sleep on concrete slabs because there were no beds. In Veracruz, 7-year-olds were held together with 17-year-olds. In Chiapas, two minors lived with their babies in the centers (see Section 5).

In May, the CDHDF issued a recommendation against the General Directorate of Prevention and Social Readaptation regarding the torture and abuse of inmate Martin Banuelos Gonzalez by six public servants at the Reclusorio Norte in 2002. The recommendation requested that the Secretaría de Gobernacion investigate the case to determine responsibility of the six officials for the abuse.

On January 15, a raid in the Centro de Rehabilitacion Social (CERESO) of Ciudad Juarez turned up over 400 weapons including knives, razors, and a small quantity of drugs.

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 February, authorities of the San Juan El Alto prison in the capital of Queretaro state denied U.N. High Commissioner for Human Rights representative Anders Kompass access to modules "I" and "Z", which are the inmate punishment areas.

*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 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.).

The country's police, at both the federal and state level, are divided into preventive police and judicial police. The preventive police maintain order and public security in cities and towns. They do not investigate crimes and only assist prosecutors (Public Ministry) at their request. The judicial police, an investigative force, are an auxiliary to the Public Ministry and act under its authority and command. A recent academic study concluded that there are more than 350,000 police officers in the country and about 3,000 different forces at municipal, state, and federal levels.

Police corruption is a problem. Police have been involved in kidnappings, armed robbery, and extortion, as well as protection of criminals and drug traffickers. From January to July, in Mexico City alone, 502 policemen were imprisoned for various crimes, compared with 257 in 2001 and 624 in 2002. During the year, the Ciudad Juarez municipal police received over 300 complaints against police officers for corruption, bribery, threats, abuse, murder, kidnapping, and extortion of victims apprehended for minor traffic violations.

NGO sources report that a great number of disappearances eventually were found to be cases of arbitrary detention by security forces (see Section 1.b.). Many human rights groups linked torture to the prevalence of arbitrary detention and claimed that torture often followed an arbitrary arrest, sometimes without a warrant, as police or prosecutors attempted to justify the detention by securing a confession to a crime (see Section 1.c.). According to PRODH, incommunicado detention was 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's personnel, state police, and the army were the most frequent abusers of detention laws.

In January, AI reported that arbitrary detention, mistreatment, and torture by police forces and Public Ministry agents continued to occur. AI also cited the incapacity of those same authorities to provide redress to the victims.

In February, the U.N. released a 22-page report made by a U.N. Working Group on Arbitrary Detention that visited the country from October 27 to November 10, 2002. The Working Group found that the lack of procedural guarantees, the existence of an inquisitorial justice system, difficulties in obtaining adequate defense, lack of resources, and sentences disproportionate to the crime all contributed to the prevalence of arbitrary detentions.

In April, the Mexico City Human Rights Commission (CDHDF) in its annual report stated that it had received 399 complaints of arbitrary detention between April 2002 and March.

On March 29, Chihuahua state police arrested Isidro Baldenegro, a Tarahumara indigenous leader of Colorada de la Virgen and community activist opposed to illegal logging, in the Sierra Madre mountains of the state and accused him of illegal possession of firearms. According to witnesses, the police planted AK-47s and handguns at the scene after the arrest.

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.). 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 in the criminal justice system persisted, although the Government continued its efforts to address it.

Judges often failed to sentence indigenous detainees within legally mandated periods (see Section 1.e.).

On May 17, local police arrested Agustin Lopez Luna near San Cristobal de las Casas, Chiapas and accused him of belonging to a Zapatista group and illegally squatting on a piece of property. Six days later, he was released.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities were in fact political detainees. The Government asserted 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 was 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.

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 2001 AI alleged that judges often were 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 party 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 varied by region and agency. Federal prosecutors usually were paid better than state prosecutors.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often complicated. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely provide 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 CNDH does not have authority to intervene in judicial proceedings, but can provide guidance on defense of rights. CNDH has a program for the liberation of indigenous prisoners that in conjunction with other agencies such as the PGR and SSP, reviewed cases that merit release such as commutation of a sentence. Formerly, the National Indigenous Institute (INI) provided judicial assistance programs for indigenous defendants and provided counsel on their behalf. The INI also distributed 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 were 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 civilian trials of soldiers involved in civilian 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 2002, the judicial branch reaffirmed that members of the military assigned to the PFP would be tried by military courts unless a civilian was involved.

In March, the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Kumaraswamy, returned to the country. In a keynote address to the Ibero-American University, he reiterated the findings in his 2002 report, that corruption and impunity impeded access to justice. He also said that human rights NGOs had noted a high level of impunity for members of the military who commit human rights violations. In his 2002 report, the Special Rapporteur 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 to 70 percent of the judges in the country were corrupt.

In August, a Federal Court in Toluca, Mexico state in a ruling on an injunction (amparo) filed in December 2002 by General Francisco Gallardo, decided that recommendations issued by the Inter-American Commission on Human Rights (IACHR) are not binding and are not subject to an injunction to force compliance.

In April, Union de Empresarios para la Tecnologia en la Educacion UNETE (founded in 1999 to improve the educational level through the use of new technologies such as computer, Internet, and television), and the Technological Institute of Monterrey completed an evaluation of courts and judges in each state. On a scale of 1 to 10, only Aguascalientes scored an 8, while Campeche and Coahuila scored 7. All other courts scored between 5 and 6, with Jalisco scoring 4. The study evaluated the professionalism, impartiality, and caliber of verdicts issued.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the law requires search warrants; however, in the past, there were credible reports that unlawful searches without warrants were common. 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 April, federal judges in Mexico state authorized the state Attorney General's office to carry out telephonic espionage in the state. It was the first time the court had put into effect the new state Attorney General organic law passed in 2002 that authorizes wiretapping.

On August 25, a 121-page publication containing transcripts of the private phone conversations of PRI Secretary General and Congresswomen Elba Esther Gordillo appeared in political circles. The Ignacio M. Altamirano Association, unheard of before this incident, issued the publication. The company listed as the printer turned out to be nonexistent. Authorities were investigating the incident at year's end.

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 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. The CNDH reported that it received seven complaints during the year that were related to forced contraception and issued one Recommendation (see Section 5).

*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.

In February, the Association of Families of Disappeared and Victims of Human Rights Violations (AFADEM) based in Guerrero state, severely criticized the harassment of family members of slain guerrilla leader Lucio Cabanas Barrientos by the Military Attorney General's office (PJM). The harassment consisted of issuing citations to appear before the PJM to testify.

Human rights NGOs continued to report on the increased presence of the military in Chiapas. In early August, the military was on alert due to the re-emergence of Zapatista leader Sub-Commandante Marcos.

In the most detailed report on displaced persons, the Fray Bartolome de las Casas Human Rights Center (FRAYBA) released a 245-page report in 2002 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.

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 were responsible for training at the different unit levels within the Army and Air Force.

In April, the Navy adopted a "Manual on Human Rights for the Mexican Navy," which complements the Disciplinary Law of the Mexican Navy.

There were credible reports of violent incidents and killings allegedly committed by armed civilian groups and local political factions in Chiapas.

In February, the Independent Organization of Mixtec-Tlapanec Peoples (OIPMT) and the Organization of Indigenous Peoples severely criticized the existence of approximately 40 armed civilian groups in the Mixtec and Tlapanec areas of Guerrero state. They stated that both armed civilian groups and military committed human rights abuses in the area.

In June, the Federal Office of Environmental Protection (PROFEPA) announced the existence of approximately 100 armed civilian groups at the service of illegal loggers. PROFEPA said the groups were found throughout the country in Chihuahua, Durango, Oaxaca, Mexico state, and in Mexico City itself. PROFEPA said that in the state of Michoacan alone, there were over 30 groups.

On July 4, unknown persons killed four peasants accused of having ties with armed civilian groups in the community of Barranca de Guadalupe, in the Ayutla region of Guerrero.

In August, the Center for Political and Economic Investigations for Communal Action (CIEPAC) reported that armed civilian groups such as Paz y Justicia, Movimiento Indigena Revolucionario (MIRA), Mascara Roja, Los Chinchulines, and Los Aguilar act with complete impunity in the Chiapas indigenous regions.

In October 2002, a court sentenced Diego Vazquez, one of the principal leaders of the armed civilian group known as Paz y Justicia, to 16 years in prison for the crime of kidnapping.

In the past, there have been violent confrontations between EZLN sympathizers and armed civilian groups.

Human rights NGOs have accused the Chiapas state governor's administration of tolerating armed civilian groups.

*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. While the overall state of freedom of expression improved and expanded under the Fox administration, threats, libel actions, defamation suits, and harassment of journalists by politicians, local authorities, police, and narcotics trafficking organizations in the northern part of the country continued. Journalists outside the capital or large cities were the most threatened, as the majority of harassment cases originated in states outside the capital and in the northern part of the country. The national print and broadcast media no longer encountered serious obstruction from the Federal Government; however, journalists believed that there was a need for legislative reform of the criminal libel laws. Although no journalists were killed during the year, one radio journalist disappeared.

The June 2002 Law for Transparency and Access to Information created the Instituto Federal de Acceso a la Informacion Publica (IFAI), an autonomous entity, which was charged with providing access to information, protecting personal data, and promoting a culture of transparency and the accountability of civil servants under the new law. IFAI served as an intermediary and resolves cases where access to information has been denied by determining whether the requested information

is public, restricted, or confidential. IFAI registered the number of requests that were submitted to federal offices. According to the Organization of American States' Special Rapporteur on Free Expression, Eduardo Bertoni, in June and July IFAI tracked approximately 12,000 petitions for information, 130 of which were denied by the agencies. IFAI then requested clarification from the denying agency.

The OAS Special Rapporteur, on a 9-day visit in August, cautioned that a "culture of secrecy" persisted in many sectors of the Government and that this culture should be unequivocally rejected to ensure true transparency in public administration, both at the federal and local levels.

In February, a federal court overturned the conviction of two men in the killing of Philip True and remanded the case to the state court to review the entire case. Various magistrates continually recused themselves from the case and a formal review was never begun. In November, one of the members of the defense team of the indigenous people accused of killing True, held a press conference, where she admitted that the indigenous people had confessed to her that they had indeed killed Philip True.

The Federal Government tolerated and did not attempt to impede criticism of the Government; however, local officials frequently reacted to criticism and unfavorable news articles by harassing journalists and suing them under criminal libel laws. In addition, government officials at all levels often attempted to obtain the names of journalists' confidential sources. In March, the Inter-American Press Association (IAPA) at its midwinter meeting adopted a resolution that called on the Government to pass legislation that would protect the confidentiality of journalists' sources.

There were approximately 300 newspapers operating in the country. Of these, there were approximately 10 main national newspapers. All were privately owned and operated. Approximately 150 foreign correspondents for international news agencies, newspapers and magazines operated in the country. Broadcast media were privately held; however, the Government operated six radio stations within Grupo IMER (Instituto Mexicano de Radio); two national television channels (TV Azteca and Televisa); and some local stations.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers. 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.

Privately owned companies controlled the publication of books with a half a dozen major publishing houses and many minor companies. The Fondo de Cultura Económica (FCE) was jointly owned by the Government and private investors; however, the director was a political appointee. During the year, FCE began distributing books from public publishing companies as well as from its own stock.

As in 2002, numerous attacks on journalists constituted the most serious problem for freedom of the press. Abuses against the press included physical violence and verbal assaults, but included arrests, lawsuits, censorship, economic pressure, and other sophisticated administrative and bureaucratic forms of harassment. Outright attacks and intimidation of journalists were underreported and usually relayed indirectly to NGOs that monitor freedom of the press and the security of journalists. There were no comprehensive nationwide studies of these incidents; however, preliminary data indicated that the number of incidents of physical violence against journalists had not increased since 2002. In October, the IAPA at its General Assembly meeting submitted a report that listed some seven attacks upon journalists up to September 4.

The influence of narcotics traffickers on the press appeared to be strong in the northern border states.

Politically motivated criminal charges were often used on a state level to deter investigations of local authorities, and several journalists during the year were summoned to court to reveal their sources. According to AI, "Journalists frequently face attack or threats as a result of their work to expose human rights violations or corrupt practices, and often live in fear of reprisals from people or organizations they have written about."

From January 1 to April 30, the NGO Periodistas Frente a la Corrupción recorded 20 acts of aggression against journalists. The OAS Special Rapporteur on Free Expression stated that, "Attacks (on the press) are directed at silencing accusations of serious human rights violations, and investigations into drug trafficking and politically sensitive issues." He also said, "Some accusations signal that police officials and army personnel are among the aggressors."

In February, IAPA reported the killings of 37 journalists in the country in the previous 14 years. On July 13, radio journalist Jesus Mejia Lechuga of Radio MS-Noticias in Martinez de la Torre, Veracruz state disappeared. According to the NGO Reporters Without Borders (RSF), Mejia was last seen on July 12 when he interviewed Alfonso Alegretti, a PRI representative in the local municipal government. According to RWB, "In his programs A Primera Hora and Voz y Palabra, Mejia had accused Guillermo Zorilla Perez, a PRI representative in the federal parliament, of having links to local drug traffickers."

The Government did not investigate sufficiently the cases that were reported, such as those included in the Recuento de Danos (Damages Inventory), a summary published by The Mexican Network for the Protection of Journalists and Communication (La Red Mexicana de Protección a Periodistas y Medios de Comunicación). The OAS Special Rapporteur for Freedom of Expression, during his recent trip stated, "The lack of investigation into acts of intimidation helps create a climate that discourages investigation and provokes self-censorship."

On February 20, in response to an October 2002 letter from IAPA, President Fox announced that his administration would consider federal jurisdiction for crimes against journalists instead of state or local jurisdiction to ensure that these cases were dealt with speedily and openly. Following additional IAPA protests, the Government set up a committee that included representatives of human rights and press organizations to review the status of inquiries into other crimes against journalists. At year's end, the committee had 59 cases for review.

All human rights NGOs, especially those that concentrated on press freedom, agreed that the laws on defamation were restrictive and undermined freedom of expression. In August, the OAS Special Rapporteur for Freedom of Expression, in his preliminary report, noted the subjection of over 20 journalists in Chiapas state to criminal defamation charges and the frequent harassment of local journalists in the interior of the country, the Distrito Federal, and Ciudad Juarez in the state of Chihuahua for reporting on local authorities and other public officials. Under the law, libel charges always carry a prison term.

During the year, the mayor of Zimapan, Hidalgo, Rosalina Gomez Rosas, filed a defamation suit against Juan Lozano Trejo and other journalists from the regional paper El Huarache for publishing information about presumed irregularities in the municipality. On July 1, the Hidalgo state Attorney General's Office called on Lozano Trejo, director of El Huarache, to identify the authors of the articles. In a letter to Hidalgo Attorney General Juan Manuel Sepulveda, Journalists Against Corruption (Periodistas Frente a la Corrupcion) requested that the complaint against the journalists be dismissed and protested that "cases of supposed insults against the honor of government officials or individuals in the public eye become criminal matters in Hidalgo." This was the latest in a series of incidents between Hidalgo government officials or political leaders and media workers, relating to the publication of information about cases of corruption and improper conduct.

Angel Mario Ksheratto Flores, author of a column published in the Cuarto Poder newspaper in the town of San Cristobal de las Casas, Chiapas, reportedly received several death threats and was facing charges that may be politically motivated. According to an alert issued by AI, in August 2002, Cuarto Poder published the results of an investigation by Flores into alleged irregularities in the state-run Schools Construction Committee (Comite de Construccion de Escuelas). In December 2002, Flores received a death threat. On January 2, agents of the State Attorney General's Office detained Flores as a result of a defamation complaint filed by a senior state official on the Comite de Construccion de Escuelas in Chiapas. The court granted Flores bail and released him from custody pending prosecution for defamation.

On March 4, agents of the state of Chihuahua in Chihuahua City detained journalist and author Isabel Arvide, who has written many articles about corruption and violence, the connections between drug traffickers and police in the state of Chihuahua, as well as the book "Muerte en Juarez" (Death in Juarez). Arvide must appear every 2 weeks before a judge of the Second Penal Court in Chihuahua City, in connection with a 2002 criminal defamation complaint filed against her for a 2001 newspaper and Internet article that alleged that a number of state government officials and a newspaper publisher had organized a new drug cartel in Chihuahua. Arvide spent almost a day isolated in jail before being released on bail that was set at \$20,000 (200,000 pesos). Arvide faces 6 months' to 2 years' imprisonment if convicted.

In June, according to Journalists Against Corruption, Senator José Antonio Hagenbick filed a criminal complaint for defamation against "the person or persons responsible" for reporting about a disturbance that he caused while inebriated in a bar in the city of Huetjutla de Reyes, Hidalgo. The Senator's complaint named several newspapers and journalists who published articles on the incident, including

Federico La Mont of the Organizacion Editorial Mexicana; Adrian Trejo of El Economista; Roberto Ramos Valencia of Ovaciones; Rafael Gonzalez of Excelsior; and the newspapers El Herald, Reforma, El Universal, Milenio, and La Cronica. The Senator denied the story and said that reporters had confused him with someone else.

According to the August preliminary report of the OAS Special Rapporteur for Freedom of Expression, the following journalists were summoned to appear in court to reveal their sources: reporter Adriana Varillas de Cancun; Maribel Gutierrez, reporter and editor of the Guerrero edition of the newspaper El Sur; Daniel Morelos, journalist and director of information for El Universal; and Enrique Mendez, Gustavo Castillo, Ruben Villalpando, Andrea Becerril, Ciro Perez, and Roberto Garduno, all from the newspaper La Jornada.

In August, Chihuahua journalists presented several cases before Special Rapporteur Eduardo Bertoni, claiming the state government was blocking their ability to report the news freely. Ciudad Juarez newspaper Norte reported on their cases and indicated that Manuel Quevedo Reyes, a former mayor of Ciudad Juarez, and Osvaldo Rodriguez, the owner of the local paper El Diario, may be using their business relationship to Chihuahua Governor Patricio Martinez to influence reporting. In addition, Cynthia Kiecker's lawyer claimed that the governor had banned reporting on her murder trial (see Section 1.c.).

In reaction to the threats of criminal defamation suits and other forms of harassment by government officials, especially at the local level, many journalists practice self-censorship.

The Government did not restrict Internet access, which was widely available across the nation, especially in major cities. Internet access was growing; however, 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 did 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. During March, there were a number of demonstrations to protest hostilities in Iraq. During one of the demonstrations, protestors threw rocks at an embassy building, causing damages. On November 28, an estimated 45,000 persons marched through Mexico City to protest energy and tax reforms proposed by the President.

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. During the July congressional elections, 6 of the 10 political parties retained their registration. Four parties were unable to obtain the necessary 2 percent of the vote to maintain their registration.

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, in 2002 there were 5,339 NGOs active in the country, which played 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; and 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 6,619 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 favor 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.

On March 1, the CNDH called for the Secretary of Public Education (SEP) and governors to issue instructions to all entities within their jurisdiction to stop the practice of sanctioning students who, because of their religious beliefs, do not participate in civic ceremonies rendering honors to the national anthem and flag. The practice has been particularly discriminatory to students of Jehovah's Witnesses. According to the CNDH, it received 1,110 complaints of discrimination on religious grounds, especially against Jehovah's Witnesses adherents, during the period June 1991 to March. The CNDH also called on the Governor of Michoacan to reinstate seven students of the indigenous Mazahua community of Cresencio Morales belonging to Jehovah's Witnesses who were expelled from the Benito Juarez school in 2001.

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 58,640 such visas since 1992.

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.

On February 28, traditional Catholics in the Los Pozos municipality of Huixtán, Chiapas prevented evangelical churchgoers from celebrating the fourth anniversary of the church's founding. On March 2, the traditional Catholics burnt the evangelical church, and local traditional leaders jailed eight of the evangelicals for several days.

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. 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.

The community of Mitziton, in the municipality of San Cristobal de Las Casas, was the location of two incidents in February and two other incidents in October 2002. On February 8, unidentified gunmen fired at a vehicle belonging to Sixto Heredia Gomez, an evangelical Tzotzil from the area. Heredia did not accuse any particular group but claimed that traditionalist Catholics of the area were upset because of the presence of evangelicals in the community. Two days later, on February 10, in the same community, the home of Pedro Gomez Lopez, located in the El Chiverio neighborhood, was burned down. Gomez Lopez stated that he suspected

traditionalist Catholic leaders were behind the arson. In October 2002, unknown persons cut a power line to an evangelical pastor's property in Mitzitón, leaving him without power. Later that month, 20 assailants dragged the pastor from his home, beat him, and threatened to kill him unless he left Mitzitón.

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.

For a more detailed discussion, see the 2003 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.

On February 21, CNDH president Jose Luis Soberanes, in his annual report to Congress, recognized the Government's lack of protection for migrants. The CNDH found problems at all levels of government, including corruption, impunity and the complicity of immigration officials and local, state, and federal officials.

In March, the U.N. Special Rapporteur on Human Rights of Migrants, Gabriela Rodriguez Pizarro, reported that she found apparent complicity among traffickers, delinquents who prey on migrants, and the authorities who extort migrants. She criticized the lack of facilities at immigration detention centers in the south of the country, including the use of local jails. She noted also the precarious medical attention at migrant stations and the humiliating treatment meted out to migrants by officials.

There also were credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

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. There was an increase in the number of gangs preying on migrants, as well as in the level of violence. According to information received by the director from runaway gang members, killing migrants as well as rape of either sex on the roof of moving trains has become an initiation rite for gang members.

A study published by FRAYBA in 2002 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, mainly in the State of Chiapas, caused persons to flee their homes for fear for their lives, returning only when they felt that the potential threat had abated.

The law includes provisions for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee or asylum status. The Mexican Commission for Assistance to Refugees, which processes asylum and refuge requests, granted 40 persons asylum during the year. Since 2002, the United Nations High Commissioner on Refugees office in Mexico City no longer processes refugee documentation for cases in the country. Government authorities now process all refugee documentation.

### *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, accusations of abuses continued to occur, most often in state and local elections. 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 to be generally free and fair.

In the July federal elections to elect members of Congress, the PRI gained 12 seats, giving it 223 of the 500 seats in Congress. The PAN came in a distant second with 154 seats, down from its previous total of 205 seats. The PRI had a working majority in the Senate.

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. In August, the state legislature of Zacatecas became the first state to allow migrants to run for state office, including citizens who have never lived in, and were not born in, the country.

Presidents are elected every 6 years and cannot be reelected.

The IFE, operating with full autonomy, arranged and supervised the congressional 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. During the July local elections for Mexico City government, the Mexico City IFE fielded a number of electronic voting booths at various voting centers to test voter acceptance of the electronic ballot.

In the Chamber of Deputies, the PRI holds 223 seats; the PAN 154; the PRD 96; the Green Ecologist Party (PVEM) 17; the Labor Party (PT) 5; Democracy Convergence (CD) 5. The Nationalist Society Party, the Social Alliance Party, Mexico Posible and Fuerza Ciudadana all lost their political party registration because they did not achieve the threshold 2 percent of the vote to remain a political party. The IFE later ruled that the Green Party had met the required threshold. 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 3, 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 12 of the 20 largest cities.

There were controversies over state and municipal elections.

Six states held elections for governor together with the federal elections in July. There were disputes over gubernatorial election results in Sonora and Campeche, but they have been resolved.

Four congressional seats, two direct vote seats and two proportional seats, were also in dispute.

There were no legal barriers to participation in politics by women. There are 23 women in the 128-seat Senate and 113 women in the 500-seat lower house. There were two 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 were 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. Women candidates often led the ticket in districts where their parties had little chance of winning. According to statistics from 2002, the PRD's membership was 48 percent female, its leadership was 27 percent female, 26 percent of its representatives and 12 percent of its senators were female, and it had 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 domestic and international human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. Government officials were often cooperative and largely responsive to their views. According to the latest statistics available from the Secretariat of Government's Directorate of Liaison with Social and Civil Organizations, there were 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.

On March 11, a decree creating a Commission for Government Policy on Human Rights was published in the Mexican Federal Register. According to the decree, the Commission is structured to convene every 3 months, be responsible for designing a government human rights policy, coordinate actions, and create mechanisms for the implementation of recommendations handed down by the CNDH and other international human rights organizations with which the Government has obligations.

On December 8, the Office of the U.N. High Commissioner for Human Rights presented the President with an analysis of the human rights situation in the country. President Fox commissioned the study in 2000, and upon its receipt promised to implement its 32 recommendations that included overhauling the judicial system in favor of one based on oral arguments; rejecting confessions obtained by torture as evidence in criminal trials; creating of a system of juvenile justice laws; changing the military justice system in which soldiers accused of human rights violations are tried in secret and the outcomes of their trials are rarely made public; and implementing new mechanisms to curb violence against women and discrimination against indigenous people. It also proposes modernizing labor laws to give workers more freedom from oppressive unions.

In 2000, President Fox eased entry requirements for those interested in observing human rights conditions. Such travelers 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.

In April, the IACHR requested that the Government provide protection to Samuel Castellanos Pinon, Beatriz Casas Arellanes, Jose Raymundo Diaz Taboada, Graciela Clavo Navarette and Mayra Irasema Jarquin Lujan, lawyers who received death threats while defending those accused of perpetrating the May 2002 massacre of 26 persons in Agua Fria, Oaxaca.

On July 19, after 22 months of investigation, Margarita Guerra Mexico City Attorney General's office (PGJDF) Special Prosecutor assigned to investigate the 2001 death of human rights activist Digna Ochoa, issued a decision that Digna Ochoa committed suicide while at the same time trying to make her death look like a homicide. The Ochoa family stated that they plan to appeal the decision through the "amparo" process, while human rights NGOs reserved judgment pending a review of the case files.

On August 6, an unknown assailant killed human rights defender Griselda Teresa Tirado Evangelio near her home in Puebla. Tirado, a teacher and an IFE council member in Puebla, was one of the founders of an indigenous rights association and was involved in litigation of various agrarian disputes in the indigenous communities. Police were investigating to determine if Tirado was targeted for her human rights activity or the victim of a crime.

On November 11, the Guerrero state Public Prosecutor's Office summoned lawyer and human rights defender of the Jose Maria Morelos y Pavon Human Rights Center, Luz Maria Lluvias Flores to appear the following day, regarding her representing three persons from the Vista Hermosa neighborhood whom a municipal official from Chilapa de Alvarez, his son, and his two bodyguards attacked on November 2. At the meeting, the accused official threatened Lluvias Flores. On November 18, the same municipal official also threatened Bernardo Sanchez, the president of the human rights center.

On June 10, the Supreme Court ordered the extradition of Ricardo Miguel Cavallo, an Argentine national, to stand trial in Spain for the crimes of genocide and terrorism committed in Argentina against Spanish nationals during the period 1976 to 1983. The Court's decision marked the first time that the Government has extradited a third country national to stand trial in another country for crimes committed outside the country prosecuting the crime.

The CNDH is the country's autonomous human rights ombudsman. Each state also has a state human rights office (CEDH). In theory, the CEDH are also autonomous; however, each CEDH president is chosen by the state governor. The CNDH issues an annual report to Congress on the state of human rights in the country.

The CNDH made 49 recommendations during 2002 and 52 recommendations during the year. During the year, the CNDH promoted legislation to make its recommendations binding on the recipient agency.

The CNDH withdrew its participation from the national human rights study commissioned by the Government under the auspices of the U.N. High Commissioner for Human Rights. The CNDH also canceled a human rights cooperation venture with the European Union.

Both the Senate and the Chamber of Deputies have committees that follow human rights and occasionally draft legislation concerning human rights. They play a significant role with respect to votes in Congress. However, they are not independent of government or political party control.

*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 March, a Secretariat of Foreign Relations (SRE) study revealed that 90 percent of the country's 97 million population suffered some type of discrimination. Women, indigenous groups, and persons with disabilities were the most affected.

On June 22, the 25th Annual Gay-Lesbian parade took place in Mexico City with 30 floats and an estimated 30 to 80 thousand participants.

In June, the Citizens Committee against Homophobic Hate Crimes reported that at least two killings of homosexuals in homophobic hate crimes occurred during the year; however, the figure may be as high as six. On June 1, the bodies of Jorge Armenta Penuelas, director of the Nogales, Sonora Gay-Lesbian Collective, and his partner Ramon Armando Gutierrez Enriquez, were found showing signs of torture. On June 13, the press reported that unknown persons attacked 12 gay children who congregated at Bosque de Aragon in Mexico City. One of the children was thrown from a height of 18 feet and sustained serious injuries. Local authorities said they could not intervene because the park is federal property.

According to press reports in January, various schools in Yucatan state expelled five children whose parents were HIV positive allegedly because the schools feared that the children could infect others with the virus.

*Women.*—The most pervasive violations of women's rights involve domestic and sexual violence. Both are widespread and vastly underreported. The law provides for fines equal to 30 to 180 days' pay and the detention of violators for up to 36 hours.

According to a national survey by the Secretariat of Health (SSA), one third of women in health centers and hospitals from November 2002 to March were victims of domestic violence.

In August, PGJDF's Center of Attention for Intra-family Violence (CAVI) reported that it had provided assistance to 18,500 persons, 89 percent of them women, during the first 8 months of the year.

Laws against rape include spousal rape, applying to both married and 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 rarely was invoked.

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. An internal investigation cleared them of any wrongdoing. The bus drivers were jailed pending sentencing. One of them died in prison during the year under suspicious circumstances after a surgical intervention.

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 were mistaken. When the families demanded additional DNA tests, the State Police claimed the DNA evidence was lost.

In February, the remains of three young women were found in the outskirts of Ciudad Juarez. In July, federal authorities launched the United Security Program

which brought 300 Federal Preventive Police (PFP) to the city. The program put the PFP in charge of public safety in Juarez, with authority over the municipal police. The number of PFP in Juarez rose to 770 in late September. Although the program is intended to curb crime in general, it includes among its tenets the protection of, and public education on, women's rights.

In August, AI reported that during the previous 10 years, approximately 370 women had been killed in the Ciudad Juarez and Chihuahua areas, with 137 of them involving sexual violence. A number of the missing or killed women were employed in "maquiladoras," or assembly plants. Many were young, in their early teens or twenties, and had been strangled. Their bodies were then dumped in the desert. The report was highly critical of the methods of state authorities in investigating the cases.

In August, the Chihuahua Women's Institute (ICHIMU) calculated that 321 women were murdered in Ciudad Juarez since 1993, including 90 that were sex-related homicides, possibly the work of a serial murderer or murderers.

In August, a joint task force was created between the PGR and the PGJE. At year's end, the task force was investigating about 25 of the murders, of which 14 had been taken over by the PGR as having a nexus to federal crimes.

In September, a team of U.N. criminal justice experts visited Ciudad Juarez. They reported that a lack of resources and faulty techniques for evidence gathering had hampered investigations.

On October 7, the Mexican Senate approved the creation of a legislative commission to review government action on the murdered women cases.

On October 17, President Fox named Guadalupe Morfin Otero as the head of the new federal Commission to Prevent and Punish Violence Against Women in Ciudad Juarez. Morfin described her duties as crime prevention and victims' assistance.

On November 24, the CNDH published a report on the killings and disappearances of women in Ciudad Juarez that was highly critical of the investigations. The report severely criticized negligence on the part of local and state law enforcement that it characterized as a disregard for the human rights of victims and their relatives. The report described the situation in Ciudad Juarez as a public safety and law enforcement crisis.

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. Reports of sexual harassment in the workplace are widespread. In the latest statistics available from 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 principle 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.

Labor law provides extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breastfeeding 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. 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.).

The CNDH reported that it received seven complaints during the year that were related to forced contraception and issued one Recommendation (see Section 1.f.).

In December 2002, the CNDH charged the Secretary of Health, Julio Frenk Mora, 31 state governors, the head of the Mexico City government, as well as those respon-

sible for public health services, for implementing forced family planning methods. The CNDH found that family planning methods were forced upon indigenous men and women without their consent or knowledge of the benefits or risks. The CNDH said that public health officials used the threat of denying health and other government assistance programs, or promising material and economic resources, to intimidate persons into accepting the family planning methods. The CNDH found that this practice violated the Constitution.

In June, an NGO accused the Intermunicipal Police of Veracruz-Boca del Rio (PIVB) of detaining, beating, and confiscating the possessions of 10 sex workers.

The Friendly 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 administrators 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. 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.

In July, the CNDH reported that it had detected serious violations to basic rights in the majority of the 54 juvenile reformatories in the country (see Section 1.c.).

In 2001, the National System of Social Assistance (DIF) in Mexico City, received 801 complaints of child abuse, and substantiated abuse in 45 percent of the cases. In 2002, DIF received 1,343 complaints and found that 28.2 percent of the complaints had merit.

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 2001 report entitled "Boy and Girl Victims of Sexual Exploitation in Mexico," jointly funded by UNICEF and DIF, remains the most authoritative publication on the subject. The report studied commercial sexual exploitation of children in six cities. Its author estimated the number of children involved in the sex trade country-wide at 16,000, although some recent estimates put the number at 30,000. Most were citizens although significant numbers were from Central America, principally Guatemala, El Salvador, and Honduras. Traffickers often promised the Central American children who enter through Chiapas employment in legitimate occupations. They were thereafter sold to the owners of bars and other establishments and 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. Some children are trafficked to the U.S. and Canada. The study concludes that commercial sexual exploitation of children is a phenomenon that is present throughout the country. There were an estimated 2,500 Central American and Caribbean nationals working illegally as prostitutes in bars, clubs, restaurants, and on the streets in the Tapachula region, according to news reports.

There were 1,200 street children in Jalisco state, half of whom were believed to be victims of sexual abuse. The children were largely concentrated in Guadalajara, Puerto Vallarta, and San Juan de los Lagos, and in areas with a heavy foreign tourist presence. 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.

In January, the national daily newspaper *El Universal* published a three-part series on the trafficking of girls to brothels near San Diego. Over a 10-year period, 3 brothers kidnapped or tricked hundreds of girls, aged 12–18 years, from southern

Mexico into going into the United States. The girls provided commercial sex mainly to Mexican field hands. Many of the girls had babies either in the U.S. or in Mexico, whom the brothers and their accomplices held hostage with death threats to prevent their mothers from escaping. The gang used professional smugglers to move the girls across the U.S. border, according to the article.

In March, DIF Guerrero announced that there were 60 locations in Acapulco dedicated to sexual exploitation of minors.

In a press interview in June, the mayor of Tlacoachislahuaca, in the mountains of Guerrero, affirmed that the sale of girls for sexual exploitation was common in the area. He stated that the going price was \$2,000 to \$4,000 (20,000 to 40,000 pesos).

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.

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.

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. 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. The program was established in 2002, and continued throughout the year.

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 services. The CNDH protects children by educating them on their rights and reviewing legislation to ensure compliance with relevant international conventions. The DIF's program for the Attention to Child Workers is aimed at preventing children from entering the work force and to encourage them to stay in school through a system of scholarships.

*Persons with Disabilities.*—There was discrimination against persons with disabilities in employment, education, and the provision of other services.

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. The President's Office for the Promotion and Social Integration of Persons with Disabilities estimates that there are 267,000 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.

On June 9, President Fox signed a new Anti-Discrimination Law passed by both houses of Congress that provides for access to health services, education, culture, transportation, and employment for persons with disabilities.

In May, Federal District head of government Andres Manuel Lopez Obrador announced that 64,778 pensions or stipends with a value of \$49 million (90 million pesos) had been given to the poor, the elderly, and persons with disabilities in Mexico City. The value of each stipend was \$66.00 (668 pesos).

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.

During the July 6 congressional elections, the Federal District Electoral Institute (IEDF) provided ballots, ballot boxes, a special ballot holder and marker for the vision and motor skill impaired voters.

*Indigenous People.*—The indigenous population has been long subject to discrimination, repression, and marginalization.

In May, a law that eliminated the National Indigenous Institute (INI) and created the National Commission for the Development of Indigenous Peoples, went into effect. The Office of Development of Indigenous People, within the presidency, was also eliminated, and its director, Xochitl Galvez was named director of the new Commission. In May, over 50 indigenous organizations complained that they had not been consulted in the creation of the new commission.



In its "National Program for the Development of Indigenous Peoples 2001–2006", the former INI estimated the registered indigenous population at 8.4 million, while the estimated overall population was 12.7 million. Estimates from other organizations varied from 8 to 10 million. The report listed: 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 did 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.

The Federal Government enforces the 2001 constitutional reforms that give more autonomy and extend the rights of indigenous people. These reforms addressed economic rights, labor rights, and traditional rights related to family and land usage. According to the International Labor Organization (ILO) office in Mexico City, the Federal Government tried to enforce these new rights; however, the ILO believes the lack of resources and the fragmentation of indigenous communities made enforcement extremely difficult.

Indigenous communities continue to insist that they want to have the power to decide which commercial firms operate in their communities and which ones should close; however, only the southern state of Oaxaca has adopted a state law of Indigenous Participation.

In August, the EZLN held a "festival" in the "autonomous community" of Oventic, San Cristobal de las Casas, Chiapas, to celebrate Zapatista autonomy. Spokesman Subcomandante Marcos announced that the EZLN planned to launch "good government councils" composed of delegates from Chiapas's "autonomous municipalities," to coordinate better the activities of these organizations, called "Caracoles." Marcos claimed to speak for both the EZLN and a number of autonomous rebel municipalities in Chiapas. He said that the EZLN will cut off dialogue with all government interlocutors, including the congressional Concord and Pacification Commission (COCOPA), and all links with what he called "paternalistic" NGOs. In fact, dialogue with the Government had not taken place by year's end. On December 10, Xochitl Galvez, head of the National Commission for the Development of Indigenous People, announced that the Government planned to push for a reopening of the debate in the Congress regarding wider rights for indigenous people in 2004.

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.).

The municipality of San Juan Chamula in Chiapas has been the scene of ongoing disputes between local leaders (caciques) and dissidents especially in the community of Tres Cruces. On January 16, unknown persons destroyed water wells used by the dissidents. On January 26, unknown persons killed two members of the community who were allied with the caciques. On January 28, a large police force raided the community reportedly to arrest those responsible for the January 26 killings. During the confrontation seven persons, including four police officers, were killed. The police arrested five members of the Tres Cruces community. In February, the press reported that a criminal court judge in Chiapas confined four indigenous detainees to prison for the violence on January 28.

Judges often failed to sentence indigenous detainees within legally mandated periods (see Section 1.e.). The new National Commission for the Development of Indigenous Peoples took over 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.

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. Many indigenous children fail Spanish class in school and also face discrimination for speaking their native tongue.

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.

In June, the U.N. Special Rapporteur on the Situation of Human Rights and Basic Liberties of Indigenous Peoples, Rodolfo Stavenhagen, visited the indigenous communities in Chiapas, Chihuahua, Guerrero, Jalisco, Oaxaca, Sonora, and the Federal District. In his preliminary findings, Stavenhagen expressed his concern over the serious situation of the indigenous peoples in the country. He cited 14 serious and up to 400 other land disputes around the country as potential problems, and he called for constitutional reform to resolve the situation in Chiapas and the crisis of persons displaced by conflict.

In February, AI reported that on January 16, soldiers entered the village of Barranca Tecoani in Guerrero state and intimidated and harassed Ines Fernandez, her husband Fortunato Prisciliano, and other members of the community. The soldiers demanded that Fortunato Prisciliano withdraw a legal complaint that soldiers had raped his wife Ines in March 2002.

In April, Marcelino Santiago Pacheco, a member of the Organization of Zapotec Indigenous People in Oaxaca state, disappeared. On April 27, his relatives filed a complaint that he disappeared while on his way to the center of the city of Oaxaca. He reportedly disappeared for the first time in 1998 when the state judicial police (PJE) held him for 9 months. He was held in prison for 5 years for suspected links to the Popular Revolutionary Army (EPR), but released in July 2002 for lack of proof.

In May, AI reported that in January the Citizens' Council of Union Hidalgo (CCU), a Zapotec community, asked the Oaxaca state Congress to audit the accounts of the municipal authorities of Juchitan for possible fraud. On February 13, the CCU protested in front of the Town Hall in Union Hidalgo the failure of the legislature to carry out the audit. According to witnesses, the municipal police and other armed men, reportedly acting on the orders of the municipal president, fired on the demonstrators, killing Manuel Salinas Santiago and wounding nine others. The CCU reported the incident to the state prosecutor, who failed to take any judicial action; however, the municipal president lodged an official complaint against the CCU for criminal damage. On April 26, municipal police detained and reportedly beat Ausencia Rodriguez Orozoco and Romel Giovanni Matus. On May 13, members of the community protested against municipal works being carried out in the neighborhood of Manuel Salinas Santiago. Municipal police reportedly threatened community members, and shots were fired, resulting in various injuries. On May 14 and 15, police detained Carlos Manzo, Luis Alberto Marin, and Francisco de la Rosa and charged them with robbery, kidnapping, and attempted murder during the February protest. According to the Oaxaca State Human Rights Commission, arrest warrants were issued against four municipal officers, Sergio Cabrera Carrasco, Tomas Gutierrez Lopez, Jesus Sanchez Gomez, and Arturo Santiago Lopez for homicide and abuse of authority for the events of February 13. As of October, the officers remained detained pending disposition of charges.

On August 6, unknown persons killed Griselda Tirado Evangelio, a lawyer and member of the Totonaca Independent Organization, which defends the rights of indigenous people in Puebla state. In August, a group of persons tried to enter her family's house. When they were unable to do so, they stood outside and continued hitting the walls and doors.

#### *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 26 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. As of August, 17 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.

The STPS and the JLCA have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. These unions, known as "protection unions", are established before a company opens its doors. Ordinarily, the union leader charges a monthly amount to the company to guarantee that no strikes or complaints will take place. To remedy this problem, STPS officials required evidence that unions were genuine and representative; however, STPS undertook no real efforts to halt these protection unions. 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.

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.

During the July Chamber of Deputies elections, the formerly PRI-allied National Union of Workers (UNT), the second largest national confederation of worker's unions with 1.5 million affiliates, supported 16 candidates in 5 different political parties: PRI, PAN, PRD, Convergencia, and PT. Only five of UNT's candidates won, forming the first UNT congressional group. All five elected representatives came from PRI and PRD. Besides its representatives, the UNT has a collaboration agreement with the Partido del Trabajo (PT), a national party with six representatives. The agreement mainly establishes support from PT for a new Federal Labor Law. However, 10 federal representatives are not enough to achieve success in a 500-person Chamber.

The Revolutionary Workers and Peasants Confederation (CROC) switched from PRI to the recently created PLM (Mexican Liberal Party) for the July federal elections. Without leaving the PRI, the CROC gave its support and received candidates as federal representatives from the PLM. However, none of these candidates won.

The PRI worker's sector, CTM, continued its support of the PRI and obtained 44 seats in the Chamber of Deputies, compared with 68 seats in 2000.

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 October, a federal magistrate issued indictments for embezzlement against Carlos Romero Deschamps, union leader at the Mexican Petroleum Company, PEMEX. The charges stem from a \$50 million illicit donation by the union to the PRI during the party's 2000 presidential campaign.

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.

During the year, efforts at labor reform were stymied. In March, STPS produced a draft bill for consideration in Congress that had not been debated at year's end. The opposition PRD criticized the proposal as a set of new rules that will allow old practices, such as lack of transparency in the public registry of trade unions, to continue.

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 pro-union workers and in reprisals against them, are prevailing practice but are not required by law or regula-

tion. Secret ballots are held when all parties agree. The draft bill contains provision for secret ballot elections as long as there are at least two contenders.

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 44 strikes during the year. According to the Secretariat of Labor and Social Welfare, in the 3 years that the Fox administration has been in office there were 124 strikes nationwide.

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 anti-union 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 claimed that its members employed approximately 1.09 million persons. According to INEGI, there are 3,901 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 Sections 5 and 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. Most child labor is in the informal sector (including myriad underage street vendors), family-

owned workshops, or in agriculture and rural areas. According to a 1999 report published by UNICEF, Mexico City's central market employed approximately 11,000 minors between the ages of 7 and 18, who worked as cart-pushers, kitchen help, and vendors. In 1999 UNICEF and DIF estimated that 135,000 children worked on the city streets. The children did not receive a fixed wage, and most worked 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.

In May, the Chamber of Deputies reported that at least 5 million children, mainly indigenous, work in the agricultural sector, the majority in harsh conditions of exploitation. The Commission for Rural Development reported that minors were employed by large agro-businesses, especially in Guanajuato, Sonora, Sinaloa, and Baja California and received salaries much less than those paid to an adult.

The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, trafficking in children is a problem (see Sections 5 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, the wage commission adopted an average 4.21 percent increase, effective on January 1, based in part on the Government's projection of a 3 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 \$4.17 (45.24 pesos). In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage was \$4.03 (43.73 pesos). In other areas, it was \$3.88 (42.11 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 in the private sector 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 6 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 16 special labor arbitration and conciliation boards in Mexico City, which deal with the different industries that the LFT considers federal. Among these industries are: railroads, petrochemical, cement, petroleum, textiles, cinematograph, energy providers, mining, and tobacco. Besides these, there are 45 labor arbitration and conciliation boards in the 31 states focused on local issues.

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 was reasonably good at most large companies. However, because smaller firms are far more numerous

and 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, in 2002 the Secretariat of Labor made 32,818 safety and hygiene inspections in private factories and public institutions. 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 federal inspectors. There are too few inspectors to permit frequent inspections. Since 2002 there are 238 inspectors and 231 in training while working.

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; however, trafficking was 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.).

Trafficking in persons is forbidden under the General Population Law, immigration laws, the federal organized crime law, and federal and state penal codes, all of which were used to prosecute traffickers of undocumented migrants, women, and children.

The law provides increased penalties for sexual abuse or exploitation of children. Child prostitution and pornography are felonies under the law. Penalties under the law include fines of 500 to 1,000 times Mexico City's minimum wage and possible jail time.

At its highest levels, the Government is making a good faith effort to address seriously trafficking within its budget constraints. The National Migration Institute (INM), the PGR, the National System of Integral Family Development, and the Federal Preventive Police are the key agencies devoted to combating trafficking, protecting victims and prosecuting traffickers. In 2002, the DIF and PGR rolled out their joint "Abre los Ojos pero No Cierres la Boca" (Open your Eyes but don't Shut your Mouth) public service media campaign, designed to encourage citizens to report all incidences of sexual exploitation.

The Government has prosecuted cases against traffickers, who usually are migrant smugglers, but reliable statistics were not available. For example, on May 29 a combined law enforcement operation netted the capture of 27 traffickers or smugglers ranging from the states of Sonora in the north, to Quintana Roo in the south. Among those captured were Jose Enrique and Gustavo Mora Cienfuegos, identified as two of the major traffickers to Arizona; Florinda Rojas Jimenez, alias Dona Flor, leader of one of the most important trafficking/smuggling organizations in the country. She maintained contact with organizations in Colombia, El Salvador, Honduras, and Guatemala.

The Government strengthened its cooperation with other countries. In August, immigration officials from Nicaragua, El Salvador, Honduras, Guatemala, Mexico, Ecuador, Colombia, and the U.S. met in Mexico City to discuss strategies against trafficking and smuggling in persons.

Mexico is a country of origin, transit, overwhelmingly from Central America, and destination for trafficked individuals, as well as smuggled migrants. To a much lesser extent, persons from Brazil, Ecuador, China, Taiwan, India, and some countries in Eastern Europe transit the country. The poor and less educated are more at risk for falling into the category of trafficked individuals.

Although the country is more of a concern as a transit country, to a smaller degree it is a destination country for the sex trade.

Baja California is a major transit point for illegal migrants of all types, including small and large-scale smuggling operations. Smuggling for purposes of prostitution continued throughout 2002, though in many cases with the knowledge of the traf-

ficked women of the type of activity in which they were to engage. In January, the PGR broke up a network in the border town of Tecate that recruited female maquiladora workers to work in prostitution. Press reports noted that Ukrainian, Russian, and Brazilian women regularly transited Baja California on their way to work as prostitutes in the Los Angeles area. In 2002, police broke up a prostitution ring in northern San Diego County, California, with links to Tijuana; many of the women were minors from Oaxaca, recruited to be prostitutes for field hands in the area. Underage Mexican and occasionally American girls found employment as erotic dancers and prostitutes in Tijuana, Rosarito, and Ensenada.

There is little reliable information on who are the traffickers, although those outside the law enforcement profession believe them to be international organized crime rings.

The commercial exploitation of children is a problem (see Section 5).

There are no known NGOs devoted exclusively to working on trafficking issues.

The Government supports general prevention campaigns for children and women, and administers assistance programs for children repatriated to the country. 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.

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## NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In 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 ostensibly 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 influence and corruption.

The President is the supreme chief of the national defense and security forces. A civilian has led the Ministry of Defense since 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 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, cattle, apparel assembly, and tourism are also important. The country's population is approximately 5.4 million. A worldwide drop in coffee prices, the lack of an adequate legal framework for investors, a fragile banking system, the high level of external and domestic debt, and unresolved property disputes stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. Government officials reported 2.3 percent Gross Domestic Product growth in real terms during the year. While official figures were unavailable, a November Gallup poll found 41 percent unemployment. The economy remains heavily dependent on foreign aid and remittances from abroad.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. At year's end, there were ongoing investigations of members of the security forces accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Holding cell conditions remained harsh. Security forces arbitrarily arrested and detained citizens; however, the number of reports of arbitrary arrests and detentions decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. The new Criminal Procedures Code took effect at the end of 2002. The judiciary is subject to political influence and corruption. The weakness of the judiciary continued to hamper prosecution of human rights abusers in many cases. The human rights ombudsman, though also politicized, 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. Salary discrimination against women in the labor force is endemic. Violence against children and child prostitution continued. Discrimination against indigenous people also occurred. Child labor continued to be a problem. The violation of worker rights in free trade zones continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation.

## 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 145 reports of instances in which police seriously wounded criminal suspects while attempting to arrest them (see Section 1.d.).

On June 9, Saturnino Varela Escalante died hours after his arrest for disrupting public order by a police patrol led by officer Javier Somarrriba in Somotillo, Chinandega. Varela allegedly resisted arrest and was kicked by Somarrriba. Forensic specialists reported that Varela died of heart injuries apparently caused by severe beating. Chinandega Police Chief Guillermo Vallecillo Ruiz condemned the incident as inconsistent with police standards and discharged dishonorably Somarrriba, who was already under investigation for theft and robbery. Somarrriba did not return to the police station after the incident and was believed to have fled to Honduras. The police sought his capture and extradition from Honduras, but he remained at large at year's end.

On August 3, police officer Dimagio Valverde shot 18-year-old Marvin Jose Miranda, after Miranda allegedly attempted to assault a taxi driver in the "El Rodeo" neighborhood in Managua. The family of the victim said that Valverde had shot Miranda in the neck even though Miranda had been trying to hide when the police arrived. Valverde's defense attorney said three of Miranda's neighbors who witnessed the confrontation confirmed that the shot had been accidentally fired in a struggle between his client and Miranda. A preliminary hearing found sufficient evidence to go to trial, which started October 3, but no information on the disposition of the case was available at year's end.

In April 2002, a court acquitted police Captain Arnulfo Rocha Mora of the charges of excessive force in the January 2002 killing of 31-year-old Santos Jose Polanco in Teustepe, Boaco. Rocha, who claimed that he shot Polanco in self-defense, was transferred and promoted to police chief in the nearby town of Santa Lucia.

*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. A leading human rights NGO, the Nicaraguan Center for Human Rights (CENIDH), received 293 complaints of torture or degrading treatment by the authorities during the first half of the year and verified 232 of these. The Inspector General's Office recorded 586 complaints of mistreatment by police and found 188 to have merit. The Inspector General punished 272 officers involved in these cases. Among the complaints were 145 instances in which police seriously wounded criminal suspects while attempting to arrest them. By year's end, the police had dishonorably discharged 11 officers. A total of 103 officers were referred to the courts for suspected criminal acts, including human rights infractions and corruption.

The Inspector General's Office reported that it received a total of 274 complaints of human rights violations by police officers during the year, including unlawful killings (see Section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 92 to have merit. The Inspector General's Office punished a total of 176 officers for violations of human rights. Of those punished, the police discharged 11 officers dishonorably, remanded 103 to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 15, Captain Francisco Orozco, chief of police in Rosita, Northern Autonomous Atlantic Region (RAAN), was accused of raping a 13-year-old girl at the police station. The girl's mother had brought her to the police to press rape charges against the girl's stepfather. Orozco allegedly told the mother to leave the room so he could interview the girl. A medical forensic exam revealed evidence of previous abuse as well as of a recent rape, which they forwarded for further forensic analysis. Orozco was immediately discharged pending the investigation. Human Rights Ombudsman Benjamin Perez called for serious punishment for this crime. Top national police officials vowed to prosecute Orozco should the evidence implicate him. In October, a jury acquitted Orozco of the charges.

On May 7, policeman Marcos Vasquez allegedly assaulted Humberto Torres Mendieta in front of his home in Ciudad Sandino, a Managua neighborhood. Accord-



ing to press reports, Vasquez arrested Torres without a judicial order for disrupting public order and disrespect of authority, then continued beating him at the police station along with other police officers. Vasquez was subsequently dismissed from the police force. At year's end, no information was available on criminal charges against Vasquez.

In June, policeman Lester Garcia was accused by his superior officer of raping a 25-year-old Ecuadorian woman who was detained at the Corn Island police station. The Ecuadorian national was waiting to be transferred to local immigration authorities after she entered the country illegally. The police official was suspended while the police Inspector General investigated. Lester was dismissed from the police for breaking non-fraternization regulations when the alleged victim acknowledged the relationship was consensual.

On September 5, a 29-year-old woman pressed charges against policeman Andres Montes for attempted rape while she was sleeping outside city hall offices in Siuna, RAAN, on August 25. She claimed that public defender Gloria Garcia suggested that she drop the charges to avoid negative consequences against her 14-year-old son, who was detained by the police at the time on other charges. Garcia allegedly took the victim to the police station and made her sign a release exonerating Montes. Montes was charged with rape in a local court. The trial, scheduled for December 22, was delayed and remained pending at year's end.

On September 7, a police patrol in Granada struck with rubber bullets and allegedly beat 18-year-old Octavio de la Rocha. According to the police, the patrol was rounding up suspected gang members when some of the youth responded by pulling knives and throwing rocks. The patrol claimed it then fired rubber bullets in self-defense. According to some witnesses, de la Rocha fell on the ground attempting to flee the melee, where police shot him with rubber bullets and beat him. De la Rocha was taken to a local hospital where he remained in a coma. Although de la Rocha's family acknowledged he sniffed glue, they denied he was a gang member or criminal. No details of a police investigation or criminal charges against any of the police involved were available at year's end.

In May, a court convicted and sentenced to various prison terms eight police officers including Deputy Commissioner Fidel Dominguez Alvarez and Captain Maribel Ruiz Lovo, for a February 2002 raid during which a group of nearly 30 police officers beat 15 people as they attempted to evict 13 families who were allegedly squatting on disputed land on the island of Ometepe. However, the Appeals Court in Granada overturned their conviction on August 23. Both officers continued to work with the police, Dominguez as the head of the investigative unit in Rivas and Ruiz as police chief in Altagracia on Ometepe.

Police officer Bismark Laguna was acquitted May 15 for the 2001 shooting of gang members Juan Carlos Mendoza and Lenin Calderon Mendoza in San Isidro, Matagalpa.

A new Prison Systems Organic Law went into effect at the end of the year. The new law establishes general norms and rules for the National Penitentiary System and regulates its activity in the execution of punishments and preventative measures, such as control, re-education, penal security, and social reinsertion.

Prison conditions were difficult. According to government statistics, the prisons, with an official capacity of 5,132, had a total inmate population of 5,306 in December, down from 5,624 in December 2002. Detainees were held separately from convicted prisoners (see Section 1.e.).

Prison guards received human rights training from the Human Rights Ombudsman (PPDDH), funded by international donors, and generally treated prisoners well.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. The Ministry of Health started a program to provide medical care, although it was unclear if this had made an impact on prisoner's access to health care. For all 8 penitentiaries and 5,306 prisoners, prison authorities maintained a staff of only 24 medical specialists, including doctors, psychologists, and nurses. Six medical personnel were located in Tipitapa, the country's largest prison near Managua, and there were at least two in each of the other seven facilities. Prison authorities reported that 30 percent of prisoners slept on concrete beds or floors, in contrast to the 49 percent that did so in 2002. Several churches and non-governmental organizations (NGOs) donated foodstuffs, beds, and medicine to help alleviate shortfalls.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.45 (6.8 cordobas). The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Many prisoners received additional food from visitors. 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 throughout 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 could no longer feed them.

Only Managua has a separate prison for women; outside Managua, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 5.7 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 prisoners' rights.

As of December, 0.7 percent of the prison population was between the ages of 15 and 18, a sixth of what it was in 1999. All youths were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

In August 2002, 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 at the time of their arrest why they were being detained. The police allegedly mistreated 47 percent, and 48 percent said that they were detained 3 days or more before seeing a judge. Half said they were not aware of being assigned a defense attorney, and 24 percent said they were incarcerated with adults.

In September 2002, 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 at the adult jail in Tipitapa. The IACHR had not decided whether to accept the case by year's end, pending the receipt of information requested from the Government.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention by the police decreased under the new Criminal Procedures Code. 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 has increased significantly since 1999, largely due to pressure from the Police Internal Affairs office and support for compliance from the Chief of Police. Under the new code, a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested.

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, then Chief of Police Franco Montealegre terminated the use of voluntary police in Managua; however, as of September 2002, there were 1,681 voluntary police outside of Managua, a 22 percent decrease from the 2,170 in 2001. Several voluntary police were implicated in human rights abuses during the year.

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 most of the cases never reach a final resolution (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 administrative restrictions, such as suspension with pay or confinement to precinct. At year's end, the Inspector General had no information on how many cases were remanded to the courts or adjudicated during the year.

The Police 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.

Police trainees must receive human rights instruction to graduate from the police academy and become officers. In addition, police officers must be re-certified in human rights annually. Canadian police and the Inter-American Commission of Human Rights (IACHR) trained the instructors teaching the human rights courses. The army included human rights training in its core training curriculum (see Section 4).

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 provisionally convicted prisoners awaiting trial dropped by 50 percent. In 2002, government statistics indicated that 10 percent of 5,163 prisoners had been in jail for 6 months or longer without a final verdict, up from 2 percent in 2001 and 4 percent in 2000. Although the number of prisoners in jail awaiting trial was not available, statistics from the Department of Prisons indicated that 13.7 percent of all prisoners being held were awaiting final verdicts, half as many as in 2002.

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 highly susceptible to corruption and political influence. The judiciary was hampered by arcane legal codes and corruption. Judges' political sympathies, acceptance of bribes, or influence from political leaders 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 that the civilian court system try members of the military charged with common crimes.

The Assembly continued to work on the revision of the country's outdated Criminal Code. In June 2002, the old Criminal Code was modified to include certain economic crimes, including illegal enrichment. The 1999 Judicial Organic Law contained a provision that established minimum professional standards for judicial appointees.

In 2000, the Government opened property tribunals to handle cases concerning properties seized during the Sandinista (FSLN) regime in the 1980s. In November 2002, the Supreme Court consolidated these tribunals into a single tribunal. The property tribunal has been extremely vulnerable to political pressure.

The civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, and the number of such suspects decreased, partly because of a new Criminal Code. Human rights and lawyers' groups continued to complain about the delay of justice caused by judicial inaction.

Judges were susceptible to corruption and political influence. Rulings in favor of those who are politically connected remained the most visible manifestation of judicial corruption. In June, the National Assembly elected 8 of 16 Supreme Court (CSJ) magistrates in what was widely reported to be a back-room political deal. All eight magistrates had strong political loyalties, either to former President Aleman or the FSLN. The leading political parties in the Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos Administration. As a consequence, a November Gallup poll showed only 6 percent of the population opposed reforming the CSJ.

The justice system was in the hands of the FSLN, to which approximately 70 percent of the judges belonged, and the FSLN used the judiciary to serve its political purposes. This was especially true in impeding resolution of property claims.

At year's end, the Supreme Court, deadlocked over political control, had not functioned or reviewed cases for over 2 months. This had a cascade effect on the administration of justice; many criminal and constitutional cases were left unresolved, and judicial positions in the appellate and lower courts, normally assigned by the CSJ, went unfilled. The appellate courts in several major cities, including Granada and Masaya, were forced to send appeals to other jurisdictions, which were not able to deal with these new cases because of their own backlogs. Wrangling between the FSLN and PLC over the election of Chief Justice and control of key constitutional and civil chambers within the CSJ, evenly split along political lines, remained unresolved with no apparent resolution in sight.

On December 8, Judge Juana Mendez found former President Aleman guilty of money laundering, fraud, and other charges, sentenced him to 20-years confinement at his ranch, and ordered him to pay a \$17 million fine (26,486,000 cordobas). Press reports indicated that the sentence was nearly brokered away in a backroom deal with the FSLN. The FSLN reportedly offered a reduced sentence for Aleman in exchange for control of key positions in the Supreme Court. However, the outcry from civil society and the international community derailed the deal.

In December, Iliana Perez, a judge with strong ties to the FSLN, acquitted Silvio Conrado, an influential and long-time FSLN financial advisor, of child molestation. During the trial, at least one minor testified that Conrado had sex with her and 3 other girls between the ages of 13 and 16 after Conrado's chauffeur transported them from school to a hotel room where Conrado was waiting for them. Other witnesses testified that they had seen Conrado's employees take the alleged victims to Conrado's hotel. Child molestation has serious criminal penalties under the law. Judge Perez refused to allow the testimony of these witnesses to be admitted in court, apparently in contravention of accepted procedure in child abuse trials. Numerous groups repudiated the judge's decision, including Special Ombudsman for Children Carlos Emilio Lopez, CENIDH, the Ministry of Family, and Casa Alianza, charging that the FSLN and its leader, Daniel Ortega, politically directed the dismissal to protect a key party official. Initial appeals by the prosecutor and Casa Alianza were rejected, but Casa Alianza vowed to continue the appeals process.

The Supreme Court's campaign to reduce incompetence and corruption in the judiciary continued during the year. Since the campaign began in 1997, the CSJ has removed a total of 115 judges—more than one-third of the 300 judges in the system; 10 judges were removed through July.

Until the end of 2002, the country used the Napoleonic legal system for all offenses, and that system still was used for many cases. 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 five-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 was 6 months, 560 suspects were held without trial for longer periods during the most recent year that statistics were released by the CSJ.

A new Criminal Procedures Code entered into effect for serious offenses in cases brought after December 24, 2002. The new code 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 only applied to the most serious offenses; however, by December 2004, it will apply to all new criminal cases. The new system offers greater transparency by allowing the accused greater access to the process. The new system strengthened the judiciary, reduced substantially the case backlog, and shortened the average time for a verdict to 15 days as the result of a better coordination between all parts of the law enforcement process. An outside evaluation concluded that there was greater transparency among judges applying the new code, although it documented a need for more personnel in the system, including public defenders.

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 is staffed by 47 public defenders assigned to district courts across the country, up from 13 in 2002. The district court of Managua maintained a staff of 13 public defenders throughout the year. In courts other than district courts, 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 small fine rather than represent such clients because the State did not pay for attorneys for the indigent. Under the new criminal procedures code, the number of indigent defendants who went to trial without an attorney decreased as the judges assumed an oversight role in court proceedings.

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 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.

*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, implying the potential for sanctions against the press; however, the Government did not invoke these provisions to suppress the media.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public without government interference. News media covered a series of scandals and allegations of government corruption without restriction.

The Bolanos administration attempted to standardize the way government 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.

On October 22, judge Juana Mendez banned El Nuevo Diario newspaper journalist Eloisa Ibarra from reporting that Mendez had permitted former President Arnoldo Aleman to have a cell phone while in prison. Judge Juana Mendez issued a judicial order prohibiting Ibarra from covering the story because of a previous story she published that was critical of the judicial system. Mendez told other journalists that were allowed to cover the story, “So the rest of you better behave.”

In October, the Inter-American Press Association (IAPA) reported threats against reporters investigating ties between drug trafficking and government institutions. For example, on May 23, La Prensa’s correspondent in Bluefields, Sergio Leon, and La Prensa’s editor, Freddy Potoy, received death threats after publishing a series of reports that implicated the chief of the anti-drug department of the National Police of the Atlantic Coast, Oscar Larrave, in drug trafficking and illegal enrichment. The nongovernmental organization (NGO) Journalists Against Corruption asked National Chief of Police Edwin Cordero to guarantee the physical safety of both journalists.

On June 3, Pablo Lastangarth, a reputed drug dealer in the Atlantic Coast town of Puerto Cabezas, threatened La Prensa’s correspondent Walter Treminio, because of Treminio’s May 26 investigative report regarding judicial anomalies in a case related to drug trafficking.

On June 4, 50 supporters of former president Aleman threatened and physically attacked journalists from the national media who were covering the visit of Aleman’s wife, Maria Fernanda Flores, to the Managua Criminal Court. Supporters of the PLC accompanied Flores and attacked the journalists because of their reporting on Aleman corruption cases. The crowd insulted and threatened reporter Lucia Pineda Ubau from television station Canal 2. The Special Ombudsman for Human Rights condemned this and several similar confrontations with journalists.

In May, a jury acquitted Tirso Moreno of all charges in connection with his October 2002 breaking into the offices of La Prensa and holding a dozen staff members hostage for several hours. The Nicaraguan Journalist Union and IAPA criticized the verdict as “a dangerous precedent for reporters and the Nicaraguan Court of Justice.”

The news medium with the largest national audience is radio; however, polls showed 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 10 Managua-based television stations, 8 of which carry news programming, some with noticeable partisan political content. In addition, there are 6 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, 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 marched without registering.

Throughout October, November, and December, thousands of university students organized protests in Managua regarding the Government's failure to increase the education budget. During many of these protests, some of the students became violent, injuring police and bystanders, throwing Molotov cocktails and homemade mortars, damaging property, and disrupting traffic throughout the city. The violence sparked confrontations with police, who often arrested violent participants, usually releasing them the next day. During each such violent protest, several persons, sometimes including police, were taken to local hospitals and treated for tear gas inhalation and other injuries. National Police Chief Edwin Cordero repeatedly affirmed the student's right to protest as long as they remained peaceful. In November, the Government charged six students with terrorism for their actions in instigating violence during the protests. On December 8, two students were acquitted; charges against the rest of the students were pending at year's end.

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 Juridica" (legal standing), which the National Assembly must approve. 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 has traditionally enjoyed a close relationship with the Government. Its relationship with the Bolanos Administration was more distant. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. At times, there have been allegations that government officials have given financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the freedom to practice other religions.

For a more detailed discussion, see the 2003 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 these rights in practice. The right of citizens to return to the country is not established in the Constitution, but, in practice, the Government did not restrict its citizens' return.

The Constitution was amended in 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 in other countries at least 4 years prior to their election or appointment.

The law includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised 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 Constitution distributes power and authority among the four co-equal branches of government. The President heads the Executive Branch and appoints a Cabinet. The President 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 constitu-

tionally 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, 91-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 two autonomous regions. The outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly; however, outgoing President Aleman was removed from his seat when he was convicted on money-laundering charges. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5-year terms on January 9, 2007.

According to the Constitution, the CSE is supposed to be an independent fourth branch of government. However, the CSE was highly politicized and subject to political influence. For much of the year, the CSE did not function, paralyzed by internal political disputes and a top-heavy bureaucracy. It verged on bankruptcy, even after firing 50 percent of its workers. It could not pay the remaining employees for months on end, and many of them went on strike, suspending the issuance of national identity cards that are required to vote. Nevertheless, CSE magistrates raised their own annual salaries by 100 percent to as much as \$155,494 (2,332,500 colobas), roughly 60 percent more than the salary of government ministers. Many observers feared that CSE would have problems conducting upcoming municipal and national elections unless the situation was reversed. In 2002, the CSE prevented regional election results from being implemented for many months (see Section 5). As a consequence, the CSE retained little confidence as an institution; a November Gallup poll showed only 6 percent of the population opposed reforming the CSE, and only 38 percent had any confidence that it could manage upcoming municipal elections.

In 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 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 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.

In September 2002, in what was widely considered a political decision, Judge Mendez charged 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 2000 municipal election campaign and its 2001 national election campaign. The President presented exculpatory evidence, although the President and Vice President enjoyed immunity from prosecution and the National Assembly did not remove that immunity. The case has not proceeded against the other individuals charged.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. 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. In addition, 5 of the 16 Supreme Court (CSJ) justices were female, and in 2002, the Magistrates of the CSJ elected Alba Luz Ramos as President, the first woman President in the history of the Court. Women held approximately 70 percent of the judge-ships 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*

A wide variety of domestic (and international) human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The largest group to deal with general issues of human rights was CENIDH. Many such human rights groups focused most of their attention on controversial economic rights, such as access to employment, social security, healthcare, and education. Other groups focused on a particular area of human rights, such as Casa Alianza, which primarily concentrated 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 academy, at various police headquarters, and with army units throughout the country. The military academy instituted human rights training as part of their core curriculum, and some military officers received internationally sponsored human rights training.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focused on the municipalities affected most adversely by the 1980–90 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.

The PPDDH, the autonomous government-financed human rights office, struggled with budget shortfalls. In 1999 the National Assembly elected the country's first Ombudsman, Benjamin Perez, to a 5-year term. There are also special ombudsmen for children's issues, women's issues, and indigenous affairs. The PPDDH began to investigate actively human rights violations during 2000 and demonstrated independence from the administration, pursuing cases even if they contradicted government policies. The Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent. Its original budget has never been restored. The PPDDH is subject to political pressure.

By July, the PPDDH had registered a total of 2,686 complaints against the Government since President Bolanos assumed control in January 2002. Many of these cases included economic and social issues, such as access to health, education, and social security, as well as human rights issues. Ombudsman Perez criticized government institutions for their lack of response in many of these cases.

#### *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. In 2002, the most recent year for which statistics were released, the National Police reported that of 41,487 reports filed by women 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 feared 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 and lack of legal training.

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; this penalty is increased to 3 to 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of the victim. According to the most recent statistics from the National Police, the police received 1,308 rape complaints during 2002, compared with 1,170 reported instances of rape in 2001. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police manage 18 women's commissariats in 18 cities with a total staff of approximately 100 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. The commissariats provide both social and legal help to women and mediate spousal conflicts. They also investigate and help prosecute criminal complaints and refer victims to other governmental and nongovernmental assistance agencies. The commissariats reported 10,227 cases of domestic violence and 2,245 cases of sexual infractions for the year, more than quadruple the figures for 2002. It is not clear that there was an actual increase in the rate of domestic abuse or if the soaring numbers were due to other factors, such as the increased confidence that victims



have in reporting their abuse to the women's commissariats and the increased number of commissariats.

In May 2002, the Appeals Court denied the appeal by Zoilamerica Narvaez of the 2001 decision by Judge Juana Mendez to drop sexual molestation, harassment, and rape charges against former President Daniel Ortega on the grounds that the 5-year statute of limitations had expired. The case was stalled before the Supreme Court at year's end. In March 2002, the IACHR held a hearing on the Narvaez case, focusing on the issue of whether the Government had denied Narvaez due process, but suspended consideration while the Government negotiated an "amicable solution" to the case with Narvaez. In September, Narvaez charged that the Government was negotiating in bad faith and returned the case to the IACHR. The IACHR had not ruled on the case by year's end.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations, and the Director of Police Economic Investigations, prostitutes 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 support this, including an intensive analysis 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. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In several raids on these businesses, police did not find underage workers, although there were reports that some workers are below the age of 18. 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 if 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 2000 by the Nicaraguan Women's Institute in conjunction with the Government, women comprise 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 differ significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors.

Women are generally underpaid, but the majority of women have some type of employment. A 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, higher than the national average.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace.

*Children.*—The Government expressed its commitment to children's human rights and welfare publicly; however, government-wide budget constraints prevented it from providing adequate funding levels to children's programs or primary education. The National Council for the Development of Children and Adolescents, a broad group of government ministries and agencies concerned with youth, is responsible for the Government's policy on youth, and developed an ambitious 10-year National Action Plan for Children and Adolescents. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a university education consortium, vastly disproportionate to 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; according to a national survey conducted by the Ministry of Labor in 2000, 49.1 percent of children and adolescents do not attend school. Another 18.6 percent said their work interferes with their school attendance. As a result, 22.1 percent of the population was classified as illiterate, according to the survey. 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 1 percent of incarcerated offenders. 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 2002, the last year for which statistics were available, 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 kidnapping, 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.

According to local media and the Ministry of the Family, the incidence of under-age prostitution increased, especially in Managua, but also near border cities and ports (see Section 6.f.). An intensive analysis done during the year by the University of Central America in the tourist city of Granada reported that all the under-age prostitutes interviewed told the researchers that they operated on their own. 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.

The Child and Family Law provides that juvenile prisoners cannot 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.*—The National Council for Rehabilitation of the Ministry of Health addresses 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, the OAS, 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.

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 disabled persons must be considered equal to other workers. However, this law rarely is enforced.

*Indigenous People.*—Indigenous people constitute approximately 5 percent of the country's population and live primarily in the 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 include 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 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 2001 national elections (see Section 3). In July, Yatama brought a lawsuit against the Government before the IACHR. The lawsuit claimed that by denying Yatama recognition as a political party in the 2000 municipal elections, the CSE had violated their human rights. The IACHR had not made a decision to accept the case by year's end.

In 2002, regional elections were disrupted by political manipulation on the part of the CSE. The CSE refused to certify the elections of governors and executive councils in the Autonomous Regions, largely for political reasons. This left the affected regions without regional authorities for most of that year.

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.

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 2002, 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 2001, the IACHR ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country within 15 months and to pay \$30,000 (420,000 cordobas) to the Awas Tingni Sumo Community 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 2002, meeting the IACHR deadline. In July, the Government established a Territorial Demarcation Commission, as required by the legislation, to begin the process of delineating indigenous territories. The commission included substantial indigenous representation but predicted that the demarcation process would require as many as 15 years to complete because of its scope and technical nature.

In April 2002, assailants shot and killed Francisco Jose Garcia Valle, husband of Dr. Maria Acosta, lawyer for indigenous rights in the Atlantic Coast known for her work fighting the controversial sale of the Pearl Cays off the coast by private realtor Peter Tsokos. Police reported that Tsokos employed one of the killers, Ivan Rivera, as a chauffeur and security guard, and some suspected that Tsokos, along with his lawyer Peter Martinez, had instigated the crime to silence Acosta. The police arrested Wilberto Jose Ochoa, one of Rivera's accomplices, who confirmed that Rivera led the group and committed the murder. Police matched the 25-caliber murder weapon to one registered to Martinez, who alleged that the police falsified the ballistics report. In 2002, shortly after the crime was committed, local judge Julio Acuna issued an arrest warrant against Rivera but absolved Tsokos and Martinez. Another local judge, Anabel Omier, issued arrest warrants against the police for falsifying the ballistics report implicating Tsokos and Martinez. Shortly thereafter, the Disciplinary Committee of the Supreme Court removed both judges, dismissing Omier and transferring Acuna. On November 21, a Bluefields jury found both Ochoa and Rivera guilty of murder for hire. At year's end, Acosta was petitioning the Supreme Court to re-open the case against Tsokos and Martinez.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, Bonanza, Rana, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care, and deteriorating roads made medicine and health care almost completely inaccessible in many communities. 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.

On March 17, approximately 50 Miskito Indians took hostage 5 narcotics police officers who had been part of a task force sent to locate cocaine from a downed airplane. When the officers tried confiscate cocaine recovered by the Miskitos, they rebelled and took them hostage. After 2 days of negotiations, the Miskitos released the officers but kept the drugs. The incident demonstrated how the lack of a government presence, ethnic tensions, poverty, and drug-based economic opportunity has created an ungoverned space in the RAAN.

*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 reaffirms this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. However, a September review of Nicaragua's labor laws done by the ILO at the invitation of the Minister of Labor noted that the 1996 Labor Code reform

had taken previous ILO recommendations into account. 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 persons per union. However, the Labor Code also allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes used this practice to stymie unionization attempts.

Unions freely form or join federations or confederations, although there are some limits placed on the participation of such groups in "sympathy strikes," 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 Labor Code reaffirms this right. The Government generally sought to foster resolution of pressing labor conflicts through informal negotiations rather than through formal administrative or judicial processes. According to the Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are 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 were 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 the process is necessary to avoid purely political bad-faith strikes in the highly politicized environment of labor relations that has existed in the country for several decades. Observers contend that the process is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect in 1996; however, during the year a strike of government workers against the Supreme Electoral Council went through the approval process relatively rapidly (see Section 3). 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 the Sandinista Workers Central (CST), an important union politically associated with the FSLN in the Free Trade Zones (FTZ). 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 approval of the 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 processes required to declare a strike legal and the CST's failure to follow the prescribed rules.

On January 23, 50 workers at the FTZ garment factory Presitex held an impromptu strike over what they claimed was a unilateral breach of their contract by Presitex. The company wanted to change the wage system from a per-hour to a per-piece basis but claimed to have presented it as a proposal to the union, rather than as a unilateral contract change. Presitex also said that the proposal gave workers the option of keeping their current wage. Nevertheless, the incident escalated, and on January 28, the striking workers allegedly forced a work stoppage at the factory

by damaging equipment and intimidating non-striking workers, according to Presitex management. Presitex then locked out its workers until January 31, when they returned to work peacefully. The company petitioned the Ministry of Labor for permission to fire the union board members for organizing an illegal strike, which the Ministry of Labor eventually approved, allegedly under strong political pressure. In addition, Presitex initiated criminal and civil charges against the workers for more than \$2 million (31.08 million cordobas) in damages. In August, judge Marta Susana Gonzalez acquitted the union members of the civil and criminal charges.

The 2001 appeal by the textile firm Mil Colores of a judge's order reinstating Juan Carlos Smith Flores was settled when Smith Flores accepted a financial settlement from Mil Colores.

On July 17, an inspector from the Ministry of Labor found several infractions, including the failure to pay overtime at the rate required by the labor code, at the FTZ garment factory KB Manufacturing located in Granada. In August, the company adjusted its overtime payments accordingly. On November 18, the CST filed a lawsuit against the company in the Granada labor court for \$60,394 (940,951 cordobas) in unpaid overtime accumulated since 1999. The company agreed to pay the workers for unpaid overtime accumulated since 2002 but said its liability for the error was limited to 1 year by the Labor Code. The court had reached no final decision on the CST lawsuit at year's end.

On September 19, Alvin Guthrie was fired from his position as labor advisor at the government-owned FTZ Corporation, ostensibly due to inter-office restructuring, after attempting to form a union among the FTZ office workers. Guthrie, a founder of the CUS independent union and former governor of the RAAN, acquired signatures from 32 of the 72 workers at the FTZ, enough legally to create a union, and submitted a petition to form a union to the Minister of Labor. The FTZ Corporation management said Guthrie was released for breach of trust, since Guthrie deceived the workers and told them he was acting under management orders when he collected their signatures. Most of the workers withdrew their signatures when management approached and questioned them. The law prohibits employers from interfering in any way with the creation of a union. Since the petition no longer had enough signatures to meet the minimum requirement to form a union, the Ministry of Labor denied Guthrie's application to form a union.

On November 27, the ILO agreed to consider a case brought by the CST charging the Sandinista Mayor of Leon with breaching the labor rights of city workers. The CST claimed that the city was ignoring the collective agreement it signed with city workers and the union. The CST also charged that the Ministry of Labor did not fulfill its obligation under international treaties to enforce the collective agreement. The Ministry of Labor said that the dispute arose from confusion between agreements that the city had signed with competing unions, one of which was the CST. The case was pending before the ILO at year's end.

On November 27, CST workers at the FTZ garment factory Presitex elected a new nine-member executive board and notified the Ministry of Labor as required. According to CST, on Christmas Day Presitex fired the entire newly elected union board in contravention of specific provisions in the law that protect union board members from being fired. Presitex told the FTZ Corporation that four of the nine board members resigned. It claimed that the rest were part of the January wildcat strike, so their dismissal had previously been approved by the Ministry of Labor. It did not explain why the four board members had inexplicably resigned, nor why it had waited until December to fire the five others. The CST had not appealed the dismissals to the Ministry of Labor at year's end.

In 2001, the CST workers at the FTZ garment factory Mil Colores 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 Martinez Rivas, who claimed that she did not infringe on any regulations and had never received a reprimand. Martinez 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. In December 2002, Martinez Rivas resolved the case by accepting a financial settlement from Mil Colores.

There are 16 enterprises operating in the government-run FTZ, employing approximately 30,000 workers. Labor laws apply equally in the FTZs. In addition, there are 20 authorized private FTZs; some are still under construction, but the 51 enterprises currently operating in these zones employ some 27,990 workers, for a total of 57,990 workers in all FTZs. Sixty-four percent of the workers in the FTZs are represented by one of 43 different union organizations associated with 8 different labor confederations; however, only about 1,793 of them, or 5.9 percent, are actual union members. While some of these unions have real collective bargaining

power, others are primarily symbolic. The overwhelming majority of the workers in the FTZs are women. Ten thousand workers, or about 19 percent of those in the FTZs, belong to the labor NGO Maria Elena Cuadra Women's Labor Movement (MEC), which has a presence in 58 of the factories. While not a union, MEC is a strong independent advocate for the rights of women laborers. 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.

Fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. The maximum fine is only \$650 (10,000 cordobas), and there is no collection mechanism; companies rarely paid the penalty assessed.

*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 occurred. The Ministry of Labor continued to report that parents forced some children to beg, and that some parents rented their children to organizers of child beggars (see Sections 6.d. and 6.f.).

*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 Labor Code raised the age at which children may begin working with parental permission at 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. On October 15, the President signed an amendment to the code to strengthen its child labor provisions. The new law makes it more difficult to obtain permission for children aged 14 to 16 to work, raises fines for violators, and permits inspectors to close facilities employing child labor. 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.

The Government reported that child labor occurred in both urban and rural areas. The majority worked in the informal sector, often for family ventures. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children 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 a unified national program targeting high-risk minors. This program, with a budget of \$1.2 million (18.648 million cordobas), covers up to 11,000 children nationwide, includes childcare services, return-to-school programs, and technical and vocational training.

*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. Each key sector of the economy has a different minimum wage, which must be reviewed every 6 months. A new minimum wage scale took effect in July, raising the minimum wage by 6 to 14 percent, varying by sector. As a comparison, inflation for the year was 6 percent. The majority of workers earn well above the statutory minimum rates. By sector, the minimum monthly wage was as follows: Agriculture, \$39 (615 cordobas) plus food; fisheries, \$61 (952 cordobas); mining, \$74 (1,150 cordobas); industrial manufacturing, \$53 (825 cordobas); electric, gas, and water utilities \$76 (1,178 cordobas); construction, \$93 (1,450 cordobas); restaurants and hotels, \$57 (890 cordobas); transportation, \$93 (1,178 cordobas); bank-

ing, \$93 (1,450 cordobas); community and social services, \$57 (890 cordobas); and central and municipal government (includes health and education employees), \$51 (801 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. In every sector, the minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods \$141 (2,065 cordobas).

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with one day of rest weekly. This provision was routinely ignored, although employers claimed that workers readily volunteer for these extra hours for the extra pay. The 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. During the year, the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers in identifying and resolving workplace hygiene and safety issues. The Ministry of Labor announced new standards of hygiene and safety governing all employers. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment.

On January 21, David Antonio Rodriguez Ruiz suffocated when a large pile of dirt fell from a tractor in Managua. Ruiz was repairing the tractor at the Julio Barahona repair shop. Fifteen days after the accident, family members of the deceased registered the incident with the Office of Health and Worker Security (OHSL). An investigation of the accident by OHSL never occurred because it lacked inspectors.

On March 4, a mechanical forklift crushed Jose Isidoro Rodriguez in El Rama while he was working for the construction company Corporation Meco Santa Fe. Although the company reported the accident, an OHSL investigation never occurred due to the limited number of inspectors assigned to the region of El Rama.

On March 11, William Vince Poveda received fatal injuries when he fell from an uneven staircase on a boat. Poveda was working for Estibas, a cargo company that transfers goods between San Rafael and Leon. The death was registered by the business; however, the OHSL did not initiate an investigation because it did not have sufficient inspectors.

On April 11, Daniel Bladimir Molina Pozo received fatal injuries from an explosion at the Triton Mine in Leon. The explosion occurred when a large borer made contact with an explosive that was left behind from a previous excavation. The death was registered by the company that owned Triton Mine. The OHSL Inspector for the Department of Leon investigated the incident and mandated corrective measures, including more strict regulation of explosive materials and verification of their disposal, a clearer definition of minimal safe distances for detonations, and mandatory participation for workers in safety training. OHSL had not verified compliance by year's end.

On June 3, Eddy Zeron Diaz Castillo received fatal injuries when he was struck by a vehicle on the highway in Managua while removing traffic cones for Corporation Meco Santa Fe, a construction company. The company registered the accident; however, no investigation by OHSL followed due to a lack of inspectors.

On August 12, Gabriel Urbina Robles was fatally injured when he fell from the top of a water tank of a truck while working for Rural Roads Program, a contractor for the city of Managua. The back wheel of the truck crushed Robles after his fall. The company reported this accident to OHSL. However, OHSL does not have an inspector general for the Jinotega-La Concordia area and did not investigate.

On August 23, Erick Benard Salinas suffered fatal injuries in Puerto Cabezas due to faulty diving equipment. While trapping lobsters for the business Copescharly, Salinas suffered decompression. No investigation was initiated because the region of Puerto Cabezas does not have an OHSL inspector.

On August 28, Jorge Francisco Laguna Mendoza fell 25 feet to his death in Rio San Juan while cutting tree branches for Union Fenosa, the electricity distribution company, after he contacted high-tension power lines. Union Fonesa reported the accident to OHSL, but no investigation was initiated because OHSL has no inspectors in the area.

On December 2, Yesse Eliet Garcia, a worker at the FTZ garment factory Chao Sing International, suffered a miscarriage when she was not permitted to leave the factory. At about 8 a.m. Garcia, 5 months pregnant, experienced light vaginal bleed-

ing and requested permission to seek medical treatment. She said that her line supervisor Huang Ji denied her permission to leave because she had no doctor's appointment. At 1 p.m. the bleeding became worse. Supervisor Jacqueline Aviles refused another request to seek medical treatment. Garcia's bleeding continued and at 4 p.m. she felt strong vaginal pain. She was finally taken to a hospital at 5 p.m. and treated for the miscarriage. An inspector from the Ministry of Labor investigated and verified Garcia's account of the incident. At the end of the year, Garcia was negotiating with the company for compensation.

The enactment of a 2001 law aimed at foreign companies prompted the filing of lawsuits on behalf of thousands of individuals claiming to be banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal. In December 2002, a judge issued the first decision on one suit, a \$489 million (7.599 billion cordobas) judgment on behalf of 583 plaintiffs. None of the companies named as defendants participated in the short evidentiary process that led to this judgment, and the court, citing the law, refused to hear their legal arguments or accept contrary evidence. The court also apparently did not consider a non-binding opinion circulated earlier that year by the acting Attorney General that cited apparent constitutional flaws in the law. In May, the claimants filed suit in a foreign court seeking enforcement of the decision. In October, the court judge dismissed the case. In December, one of the companies named as defendants filed suit in a foreign court against some of the plaintiffs, alleging abuse of power and malicious prosecution. Several hundred lawsuits claiming over \$10 billion (155.4 billion cordobas) in damages were pending in the country's courts.

*f. Trafficking in Persons.*—The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was little documented evidence of a substantial trafficking problem within the country; however, there was 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. The Women's Commissariats of the Police ran a nationwide trafficking awareness campaign to high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. 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.

On October 15, the National Council for Attention and Protection of Children (CONAPINA), a quasi-governmental institution composed of high-level state, non-state, and international actors and charged with national policy on children, approved a National Strategy Against Commercial Sexual Exploitation of Children and Adolescents, including trafficking of children. The highly detailed plan was integrated with CONAPINA's 10-year national policy on children and developed as a national consensus, with broad participation. It designates the Ministries of Family, Health, and Education as the principal governmental organizations to create and enforce policies against trafficking in persons and other forms of commercial sexual exploitation. The plan strongly encourages the participation of local government and civil society for its implementation. It sets out 12 clearly defined objectives and 9 strategies for implementation, including prevention, victim protection, victim attention, and prosecution of traffickers. The plan also has detailed measures for evaluating progress.

The law does not make prostitution illegal, though it bans its promotion. The Child and Family Law, which took effect in 1998, defines statutory rape as sexual relations with children 13 years old and younger; thus, there is no legal prohibition on prostitution by juveniles 14 and older (see Section 5).

On July 4, 12-year-old Ana Francis Pineda was kidnapped by Maritza Lopez Cortedano from her house in Matagalpa and taken to Costa Rica, apparently to elicit a high price as a virgin. The police worked through Interpol to alert the Costa Rican authorities, who located her in Santa Clara on August 5 in the custody of a Costa Rican. They returned her to her family on August 8. A doctor who examined the girl reported no evidence Pineda was sexually abused during her captivity. The Costa Rican authorities detained at least one of the girl's captors.

During the year, officials from the Government, NGOs, and other organizations characterized the trafficking problem as small—Casa Alianza knew of only two documented cases of trafficking in the last 3 years—but identified three potential problem areas: Teenage prostitution in the Atlantic Coast, teenage prostitution at massage parlors, and child pornography. There was no knowledge of any persons traf-



ficked by organized rings, although there were reports of adult prostitutes voluntarily seeking better opportunities in other regional countries (see Section 5).

In August, the Consular Affairs Office of the Ministry of Foreign Relations reported it had repatriated two minors from Guatemala. The minors, reported missing by their families earlier in the year, had been found working at a nightclub in Guatemala and detained. The Consular Affairs office worked with the Guatemalan authorities to ensure that the victims were not penalized and provided for their return to their families.

At the end of November, Salvadoran border police arrested three Nicaraguans, Doris Maritza Rivas, Jose Antonio Marin, and Carlos Martinez Gutierrez for attempting to smuggle two Nicaraguan and two Salvadoran minors to Guatemala. A Salvadoran police spokesman indicated that they believed the minors were headed for Guatemala or Mexico for prostitution purposes without elaborating the basis for this suspicion.

On December 3, members of civil society and the Government formed a national Alliance Against Trafficking in Persons. The Alliance is designed to coordinate action against trafficking in persons by training and empowering national institutions to find and combat trafficking activity.

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## 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.

The country has had no military forces since 1989. The Panamanian Public Forces consist 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 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 approximately 79 percent of gross domestic product (GDP). The country had an estimated population of 2.9 million. GDP growth was negligible for the past 3 years, poverty worsened, and income distribution remained highly skewed, with growing disparities between rich and poor. Unemployment was officially estimated at 13.2 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. Overall prison conditions remained harsh, with reports of abuse by prison guards and regular 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. Women held some high positions in Government, including the presidency; however, discrimination against women persisted, and violence against women remained a serious problem. Discrimination against indigenous people and ethnic minorities continued to be a problem. Worker rights were limited in export processing zones and among government workers. Child labor and trafficking in persons were problems.

### RESPECT FOR HUMAN RIGHTS

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

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

At year's end, a court case was pending and the investigation continued into the July 2002 killing of a 13-year-old indigenous Wounaan girl, Aida (or Ayda) Chirimia,

in the Darien village of Biroquera, reportedly within the local national police compound.

In 2001, the bodies of two men were found on the beach in 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; the PNP officers remained in jail.

In April 2002, the Truth Commission established in 2001 to investigate killings and disappearances believed to have occurred under the 1968–89 military dictatorship released its final report to President Moscoso and Attorney General Sossa. Among the cases 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. In mid-year, the Second Superior Tribunal dismissed charges against nine members of the former National Guard, including captains Rigoberto Garibaldo, Aquilino Sieiro, and Moises Correa, for their alleged roles in the Portugal case. The court ruled that a 20-year statute of limitations applies to murder cases (Portugal was killed in the early 1970s). The ruling can be appealed to the Supreme Court.

Guerrillas from the terrorist organization Revolutionary Armed Forces of Colombia (FARC) and other Colombian armed groups operated along the border with Colombia and made occasional incursions into the country. In January, four indigenous leaders of the border town of Paya were killed by a group of insurgents from Colombia, reportedly members of the United Self-Defense Forces of Colombia (AUC) terrorist organization.

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

In December 2002, the head of the Truth Commission asked the Attorney General to reopen investigations into four additional disappearances from the late 1960s and early 1970s. During the year, the Truth Commission remained active and the Government considered its recommendations.

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) engaged in occasional kidnappings of persons along the border with Colombia, and sometimes deeper into Darien Province; they also harassed and raped residents in that province. Indigenous populations living in remote areas, away from state control, were especially vulnerable to these attacks.

*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.

During the year, police generally exercised restraint in their treatment of street protesters. In September, there were large protests and demonstrations in Panama, Colon, David, and other cities regarding the social security system. Police used tear gas and rubber bullets, arrested 20 people, and reported 14 people injured (see Section 2.b.).

Prison conditions remained harsh and, in some cases, life threatening, due largely to budget constraints. As of mid-December, the prison system, which had an official capacity of approximately 7,400 persons, held 11,491 prisoners. Most prisons were dilapidated and overcrowded. 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. AIDS, tuberculosis, and other communicable diseases were common among the prison population. Several prisons suffered from water shortages during the year. 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 November, 15 inmates had died, 8 from AIDS.

In August, a new law that partially reorganized the prison system took effect. The new law gives civil service protection to guards and wardens, some of whom were former political activists who obtained their jobs through political patronage. The law also specifies new procedures to discipline inmates who violate prison rules and for the issuance of work release permits for those who are incarcerated.

There were some minor improvements in the prison system overall, including two orientation sessions for new civilian prison guards, who received courses on inmates' rights and penitentiary procedures. The DGSP announced that it was in the process of hiring some 150 new civilian guards. Other improvements included increased Internet access and computer literacy training for the first time in some women's prisons, and more opportunities for work and training in prison.

The DGSP largely depended on 1,500 PNP officers to supply both internal and perimeter security at all prisons. There were only 365 civilian corrections officers (or "custodians") for the entire prison system. 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. Civilian custodians handled inmates within Nueva Esperanza, Tinajitas, and the central women's prison, which used only female officers. El Renacer prison had civilian custodians during daylight hours, after which PNP guards took over. 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.

Abuse by prison guards, both PNP and civilian, was a recurrent problem. Police officials acknowledged that they received and investigated 37 cases during the year; 2 for abuse of authority, 6 for physical mistreatment of prisoners, and 1 for rape.

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. One additional facility, El Renacer, held inmates generally accused of less serious crimes. The island penal colony of Coiba, where conditions were particularly harsh, remained open but held only 38 inmates.

In Nueva Esperanza prison in Colon province, 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.

There were prisons of significant size in David, Santiago, and other towns. Small jails attached to local police stations around the country sometimes held 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.

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.

While there was one modern juvenile detention center near Panama City, 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.

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, brought 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. 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 PNP falls under the civilian authority of the Minister of Government and Justice. There were approximately 15,000 police officers with an estimated total budget of \$160 million. Although its primary mission is law enforcement, the PNP is detailed for prison and border security. 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 and performed criminal investigations in support of public prosecutors. 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. Courses on human rights were also included in some police training, including training for border police.

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 the 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 (known as the Defensoria) also received 52 complaints against the police for abuse of authority (see Section 4). Through late December, the PNP Office of Professional Responsibility received 467 complaints, an average of 9 complaints per week, a decrease from 11 per week in 2002. The office penalized officers in 59 cases for corruption, abuse of authority, burglary, or bribery. Penalties included reduction in rank, and in severe cases, criminal prosecution. There were no dismissals during the year, only administrative sanctions.

The PTJ received complaints from the public, and officers could make anonymous complaints of corruption and other problems. By late November, the PTJ Office of Professional Responsibility had conducted 170 investigations, which resulted in the dismissal of 34 agents. The majority of open cases were for misconduct or improper behavior (47), mishandling official property such as misplacing guns or radios (39), corruption (31), and negligence (19).

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. In July, there was a high profile case of several incoming PTJ officer candidates caught cheating on the entrance exam. They were dismissed from the exam and barred from reapplying.

The Constitution 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 November, 6,367 prisoners, or about 55 percent of the prison population, were pretrial detainees. 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, and 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.).

A judicial reform program started in 1998 by the Inter-American Development Bank and the Government improved judicial training, strengthened the investigative capabilities of the Attorney General’s office, and reduced 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 may be present with counsel during the investigative phase of the proceeding. Judges may 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 2002, 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 educational television station. The law prohibits newspapers from holding radio and television concessions, and vice versa. 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 relatives and associates of former President Perez Balladares, who was a leader of the largest opposition party. According to a survey of the payment and placement of advertisements by the Government, there were clearly newspapers that were favored, and not based on circulation. During the first 4 months of the year, 40 percent of all government newspaper advertisements were placed with a newspaper with the fourth lowest circulation of the five major dailies, but one that was widely and clearly identified with the ruling 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.

The Government continued to impede, disregard, or otherwise challenge a 2002 “transparency law” that provides public access to information from and about public entities. In June 2002, the President issued an executive decree that limited the law’s effect by imposing new and highly cumbersome regulations for those wishing to acquire such public information. Several dozen requests were made under the new law, and most were not honored by the institutions; as of December, of 48 information requests, 15 had not yet been decided, 10 had been granted, and 13 denied. The Ombudsman, Solicitor General, Transparency International, the Electoral Tribunal, and other groups asked that the decree be declared unconstitutional. In 2002, the Solicitor General opined that it was unlawful and asked for a three-member bench of the Supreme Court to review it, which was still under way at year’s end.

In August, the Comptroller denied a request of a journalist for the list of public officials who had failed to submit the legally required declaration of assets, and the Supreme Court subsequently upheld that denial. A majority of the Court cited the Moscoso administration’s “personal stake” requirement for individuals and the press to obtain such government information.

Also in August, the Supreme Court rejected a request by the Partido Popular political party to review the contract by which a Costa Rican citizen was hired as an aide to the Ministry of the Presidency. The judges held that since the requestor had no “personal stake” in the appointment, he had no right to know about it.

A 1999 law eliminated “gag laws” dating from the military dictatorship; 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 80 active cases of journalists facing defamation charges brought under the criminal justice system. In 47 completed cases, the courts sentenced journalists in 13 instances; the others were dismissed or the accused found not guilty.

In August, a municipal court dismissed charges brought by the Moscoso administration against four journalists who were reportedly observing and photographing the presidential beach house from a nearby public beach. Presidential guards detained the journalists, confiscated their photographic equipment, brought them onto the presidential compound’s grounds, and then charged them with trespassing in a restricted area and attacking the integrity of the state. A judge later ruled that the journalists did not commit a crime.

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. Despite occasional public protests over the content of radio programs, no stations were fined.

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. The police generally 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 during the year. In September, there were large protests and demonstrations in Panama, Colon, David, and other cities regarding the social security system. Police used tear gas and rubber bullets, arrested 20 people, and there were reportedly 14 people injured. However, police generally used restraint.

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 2003 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. 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 the granting of refugee status or asylum to persons who meet the definition in 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. Some Colombians have lived in the country for years without formal refugee status. According to the UNHCR, there were about 1,000 Colombians under temporary protective status in the country.

Large groups of displaced persons periodically fled violence in Colombia by crossing the border into Panama. 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, the Catholic Church, and NGOs 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 in the remote Darien border area were beyond the reach of organized assistance from the Government or other groups.

In April, the Government repatriated 109 Colombians living in the border town of Punusa. The Government claimed that this group was infiltrated by the FARC and asserted that military and communications equipment was found among the group. The Panamanian and Colombian Ombudsmen, the UNHCR, and human rights groups called the operation a forced repatriation and said that the Government violated the 1951 and 1967 U.N. conventions.

In mid-December, the Government together with the Colombian Government and the UNHCR successfully conducted a voluntary and transparent repatriation of 85 Colombians from Jaque.

The 1998 decree contains provisions for temporary protection, but the Government’s Refugee Commission did not meet during the year and reviewed no cases. The Government improved cooperation 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. In September, the UNHCR and Government of Panama formally agreed on an arrangement that would allow the UNHCR to have a 6-month official presence.

The authorities continued to refuse entry to many Colombians who arrived by air and could not show that they had at least \$500.

*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 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 2002, Moscoso's party regained control of the Assembly through an ad hoc coalition that included opposition party legislators.

The country has a strong executive branch, but continued allegations of undue presidential influence over the judiciary on electoral matters during the year remained unsubstantiated by indictments or convictions. The Electoral Tribunal has remained fully autonomous, maintaining the integrity of the civil registry and electoral processes.

There were no legal barriers to participation in government or politics by women, members of minorities, or persons of indigenous descent. Mireya Moscoso was the country's first female president. Women held 8 of 71 Legislative Assembly seats. 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*

A number of human rights organizations, including both religious and secular groups, operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views, but there were problems in Darien province.

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, he could confront public institutions and employees with their misdeeds. In 2001, the Legislative Assembly elected attorney Juan Antonio Tejada Espino as Ombudsman for a 5-year term.

During the year, the Ombudsman's Office received 1,697 complaints against the Government. Of this number, 1,611 were against public institutions, and 86 were against businesses operating under a government concession. The Ombudsman opened regional offices, improved its comprehensive web site, and enhanced public access to its services.

*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. A 2002 law specifically prohibits discrimination and any kind of "right of admission" to any public or commercial establishment and sets fines from \$250 to \$1,000. However, societal prejudices persisted. Cases of discrimination were difficult to prove, and legal remedies for victims were complicated, time-consuming, and costly. Early in the year, a joint Om-



budsman—Panama City investigation revealed that many commercial establishments continued to openly operate a “right of admission” policy, which discriminated against dark-skinned persons.

*Women.*—Domestic violence against women continued to be a serious problem. The Family Code criminalizes family violence (including psychological, physical, or sexual abuse), but convictions were rare unless a death occurred. As of November, the PTJ registered 1,519 cases of domestic violence during the year, compared with 1,801 during 2002. The PTJ also received 515 cases of rape and 92 cases of attempted rape through November, compared with 506 cases of rape and 99 cases of attempted rape in all of 2002. 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.

A 1998 law prohibits discrimination on the basis of sex. The 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, according to a 2002 study. There were credible reports of irregular hiring practices based upon age and “appearance.”

Through the National Directorate of Women and the Center for Gender Training, the Ministry of Women, Youth, Family, and Childhood 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.*—The Government is committed to children’s rights and welfare. 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 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 327 cases of child abuse and neglect, compared with 224 through November 2002. Sexual abuse, including incest, accounted for 131 of the cases. Lack of reporting remained a problem, often because of parental involvement or complicity. Sexual abuse of children was reported in both urban and rural areas, as well as within indigenous communities. Neglect of children also was a problem. Malnutrition and inadequate medical care were generalized problems, most severe among rural indigenous groups.

Inadequate resources and training available to the family courts continued to result in controversial decisions, including cases in which children were returned to abusive situations. 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.

Child labor and trafficking in children were problems (see Sections 6.d. and 6.f.).

*Persons with Disabilities.*—There were an estimated 50,000 persons in the country with various 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, the law requires schools to integrate children with special needs into the student body, and this law generally was enforced. The law also mandates that new or remodeled public spaces be accessible to persons with disabilities.

The Ministry 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 People.*—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. There are indigenous reserves for five of the country's seven native groups, including the Embera-Wounaan, Ngobe-Bugle, and Kuna. Tribal chiefs govern each reserve. The much smaller Bri-Bri (1,500 members) and Naso (2,800 members) tribes, residing near the border with Costa Rica, did not have officially recognized enclaves.

The Ministry of Government and Justice maintained an Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups had considerable 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 establish regulations for artisan fairs. Despite legal protection and formal equality, indigenous people generally had 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 was widespread.

Although their population suffers from poverty and malnutrition, Kuna leaders have succeeded in enforcing their territorial boundaries and maintaining their cultural integrity. There were two Kuna-Yala 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.

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.).

Land disputes in Darien Province between and among indigenous groups, farmers and peasants, and Afro-Panamanians escalated during the year, sometimes resulting in violent confrontations.

*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, sometimes 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 often worked in 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 activities. 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 subtle terms. Afro-Panamanians made up about 14 percent of the population and mixed black and mestizo accounted for about 40 percent; however, blacks were conspicuously absent from positions of political and economic power. The clustering of Afro-Panamanians 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 predominantly Afro-Panamanian city of Colon, 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. The Labor Code establishes the minimum size of unions at 40 workers and permits only one union per establishment. The code provides that if the Government does not respond to a registration 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. In 1997–98, the International Labor Organization (ILO) criticized this 40-person limit and asked the Government to change it, with no response. The code also allows labor leaders to keep their union positions if fired from their jobs.

In August, the Government announced that it had fully complied with a 2001 ruling by the Inter-American Court of Human Rights that found the firing in 1990 of 270 public sector electricity and telecommunications workers to be improper, and said it had made final payments to the claimants. The claimants and the Court disagreed and said that the Government still owed a substantial amount of back payments and fines.

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 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. 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. 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.

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 Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration.

The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike, except for those in areas vital to public welfare and security, such as the police and health workers. At least 50 percent of the workforce must continue to work to provide minimum service. 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 law governing the autonomous Panama Canal Authority prohibits the right to strike for its 9,200 employees, but does allow unions to organize and to bargain collectively on such issues as hours and safety.

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 direct negotiations with selected workers who were already 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, and wages were usually lower, an incentive cited to attract investment 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 Sections 5 and 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, and child labor was a problem in some provinces and some economic sectors.

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 fell 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. In August, the Government raised the base minimum wage by an average of 4 to 5 percent, depending on sector, region, and company size as part of a legally required review of the minimum wage. Public workers do not fall under the Labor Code and were not included in the group of beneficiaries. 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. 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 law prohibits trafficking in women and children, but trafficking in persons was a problem. NGO reports and government officials had credible evidence of the problem; however, its magnitude was difficult to determine because the country is a transit point for illegal economic migrants who were not forced into prostitution or debt bondage but used similar smuggling routes.

The Penal Code prohibits trafficking in women and children. Statutory limitations, including the need for a complaint for an investigation to be initiated, hampered the effectiveness of the Sex Crimes Unit within the PTJ and other government agencies. Limited financial and material resources, few formal education programs, and lack of victims' programs diminished the Government's efforts to combat trafficking. A comprehensive enhancement of the Penal Code that included stronger penalties, better legal definitions of trafficking and pornography, and enhanced investigations was proposed but had not been passed by the Legislature at year's end.

In August, Xiomara Hubbard, also known as Madame Tonya, received a 3-year prison term for her role in promoting underage prostitution but was released pending appeal. Two accomplices were sentenced to 3 years and 2 years and 3 months, respectively. There were four other formal investigations, and one case was transferred to the State Prosecutor's office for prosecution. Information sharing between the Government and neighboring countries is limited, but the PTJ received leads from Interpol.

Panama is a destination country for trafficked women. There was little evidence that children were trafficked to or from Panama. Colombia was the primary country of origin, followed by the Dominican Republic. Many Colombian women came to work legally, knowingly, and temporarily as escorts ("alternadoras") in clubs and massage parlors. The police reported that some Colombian women were trafficking victims in that their freedom of movement may be limited, and they were forced to pay off large contractual debts. Approximately 450 alternadora visas were granted during the year. Women from countries other than Colombia are not eligible for this visa. The number of Dominicans who were trafficking victims was unknown; many came willingly to the country apparently intending to become prostitutes. Anecdotal evidence suggested that some were forced, against their will, to continue as prostitutes.

Panama was a transit point for Colombian sex workers in other Central American countries and the United States. Some of these women were assumed to be trafficking victims, but evidence of total numbers was lacking. Alien smuggling was a more prevalent problem. Most smuggled aliens were Chinese and Indians who arrived from Ecuador or Peru in route to the United States. There was limited anecdotal evidence that some were trafficked for debt bondage.

The PNP and the Immigration Department conducted raids every 2 to 3 months on bars and brothels and deported an estimated total of 125 foreigners for working in illegal prostitution. Few of the deportees were minors. Immigration officials also conducted ad-hoc investigations and raids based on tips and other leads but did not work cooperatively with the PTJ Sex Crimes Unit.

Commercial sexual exploitation of minors was a problem. ILO studies indicated there were at least 100 minors who were victims of commercial sexual exploitation. Commercial sexual exploitation was primarily an internal issue, and there was limited evidence of international trafficking networks of minors to or through Panama. NGOs and government efforts in prevention and education were limited by lack of resources, legal technicalities, and coordination problems.

## 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. In April, voters elected Nicanor Duarte Frutos of the Colorado Party, as President in generally free and fair elections. In August, Duarte was inaugurated, succeeding Luis Gonzales Macchi. The bicameral Congress consists of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party, the dominant political party, controlled the Chamber of Deputies, while a coalition of five opposition parties controlled the Senate. The Constitution provides for an independent judiciary; however, the courts remained inefficient and subject to corruption and political pressure.

The military generally did not play 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. On several

occasions during the year, generally in response to increased crime, the Government called on the military to assist the police in maintaining public order. 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 was approximately 5.8 million. An estimated 32 percent of the population was employed in agriculture, which provided 30 percent of the gross domestic product (GDP) and more than 90 percent of export earnings. In 2002, the per capita GDP fell to \$934, its lowest level in 17 years. The Central Bank projected 2 percent growth for the year, after a 2.2 percent contraction in 2002. 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 kidnapping suspects, allegedly directed by government agents. The Human Rights Ombudsman prosecuted cases of human rights abuses committed during the 1954–89 Stroessner regime. Prisons were overcrowded and violent. Other problems included arbitrary arrests and detention, lengthy pretrial detention, corruption and inefficiency in the judiciary, and infringements on citizens' privacy rights. The Government took steps to reduce illegal military conscription and treatment of conscripts improved; however, recruitment and conscription of minors continued. Police used force against illegal but peaceful demonstrations. 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 was a problem. Trafficking in persons was a problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no political killings; however, the police and military were responsible for some killings involving the use of unwarranted or excessive force. There were reports that police officers killed persons while acting outside the scope of their duties and of deaths in custody.

In August, a police officer killed 17-year-old Christian Bernardo Vega Moran with a gunshot to the head and injured two other minors. The policeman claimed that the youths had opened fire on him and was not charged.

In September, authorities arrested a member of the National Police, Adrian Martinez, and charged him with killing two 15-year-old boys, Oscar Romero Salinas and Rumilio Caceres. Prosecutors alleged that he sexually abused the boys before shooting each in the head. The case had not come to trial by year's end.

In response to a request by Human Rights Watch that it investigate deaths among military recruits, the armed forces began to enforce rigidly the requirement that conscripts be 18 years of age. There have been no reported deaths among recruits since the armed forces adopted this practice.

Military investigators investigated the 2002 death of Luis Bobadilla Acuna, a 16-year-old military recruit. Military policemen detained Bobadilla after they found him drunk while on leave. While in custody, Bobadilla died of a gunshot wound to the temple. Investigators determined that the shooting was either accidental or a suicide. His family replied that he was shot in the right side of the head, but that he was left-handed. He was the first conscript to die in more than a year. The military refused to investigate the issue further.

No new information was available on the continuing investigation into the June 2002 police killing of rural demonstrator Calixto Cabral.

In the pending investigation of three police officers involved in the killing of Cynthia Fretes, a January ballistics test demonstrated that she died from a bullet fired by police officer Roque Fretes. The case remained on court dockets but had not come to trial by year's end.

There were no new developments in the pending trial of police officer Adan Ramirez Olazar in the killing of Roberto Carlos Paniagua Jara.

In June, a judge freed former President Raul Cubas from house arrest. The charges Cubas faced over the deaths of seven demonstrators in 1999 remained in place, although the judge declared that Cubas bore no responsibility for the deaths. A petition to dismiss the charges remained pending at year's end.

In September, the Congress passed legislation to create a Truth and Justice Commission to deal with former President Stroessner's abuses. Human rights non-governmental organizations (NGOs), as well as the National Movement of Victims

of the Stroessner Dictatorship, lobbied for 6 months for the creation of the commission.

In September 2002, lawyers from the Committee of Churches, an NGO, petitioned the Foreign Ministry to continue prosecuting a motion to extradite Stroessner from Brazil to stand trial for a murder committed in 1987. By year's end, the Ministry had not acted on a 2001 petition to extradite Stroessner for the 1976 killings of Rodolfo and Benjamin Ramirez.

*b. Disappearance.*—There were no reports of politically motivated disappearances. In January 2002, law enforcement agents from the Attorney General's office allegedly kidnapped, tortured, and threatened the lives of leftist political figures Juan Arrom and Asuncion Marti. Arrom and Marti, suspects in the kidnapping of Maria Bordon de Debernardi, allegedly were held captive for 2 weeks. They were freed by family members, who claimed they were tipped off about Arrom and Marti's whereabouts 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.

In December 2002, prosecutors filed kidnapping charges against Arrom and Marti. In July, police raided a house in the Department of San Pedro and seized a large cache of arms belonging to the Arrom-led Patria Libre Party, which had been stored at the residence of a party member and intermixed with dozens of boxes of party campaign literature. Carmen Villalba, wanted in the Debernardi case, was arrested. Her husband, Alcides Oviedo, escaped and remained in hiding at year's end. In August, Arrom and Marti, who were free on bail, disappeared days before their trial began. In December, Arrom and Marti appeared in Brazil, where they had been granted political refugee status. The Government continued to work with Brazilian authorities to revoke their refugee status and return them. They were being tried in absentia at year's end.

The Supreme Court maintained documents related to abuses committed during the Stroessner regime in an Archives of Terror that were available for research by academics and the general public. During the investigation of the alleged Arrom/Marti abduction, authorities discovered additional documents that were added to the Archives.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; 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 September, Elvio Riquelme, one of the accused in the killing of the entertainer Luis Rios, claimed that four policemen tortured him in the course of questioning.

In 2000, several persons arrested during the state of exception following the abortive 2000 coup reported that former Interior Minister and legislator Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. In August 2001, prosecutors charged Bower with torture and other crimes for his actions following the abortive coup. Bower's trial continued, although it reached the 3-year point since the alleged torture took place, triggering the automatic dismissal of the charges, as stipulated by law. Prosecutors successfully launched a special appeal to keep the case alive on the basis that the 3-year limit does not apply in the case of torture allegations.

Police used force to disperse illegal but nonviolent protesters on several occasions, sometimes killing or seriously injuring civilians.

The Constitution allows the Human Rights Ombudsman (Defensor del Pueblo) to prosecute hundreds of cases of human rights abuses stemming from the 1954–89 Stroessner regime for monetary compensation. Since his appointment in November 2001, the Ombudsman, Manuel Paez Monges, has ruled that 35 persons were entitled to compensation. In October 2002, Paez Monges announced that 13 victims of repression during the Stroessner dictatorship would receive compensatory awards; this was the first relief awarded by the Ombudsman's Office.

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 held 2,470 as of mid-year. A majority of those held were awaiting trial. Other regional prisons generally held approximately three times more inmates than originally planned. UNICEF reported that conditions were sub-



standard 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 120 guards for nearly 2,500 prisoners at Tacumbu Prison. Inmates frequently had weapons, particularly at the Emboscada prison in Minas. Escapes and escape attempts were frequent. In April, police prevented an escape by 13 prisoners from the Nemby facility. They were subsequently transferred to the Tacumbu prison.

In August, Judge Pedro Mayor Martinez ordered the Minister of Justice and Labor to issue a report on conditions inside Tacumbu. The Committee of Churches petitioned the judge on behalf of more than 1,000 prisoners at the facility. The Committee highlighted in its complaint the lack of medical attention afforded to inmates.

In September, the Public Defender's Office released a report that revealed that the budget for feeding prisoners at Tacumbu amounted to \$0.11 (687 guaranías) per prisoner per day. There were no funds available to provide medicine for ill prisoners. The Ministry of Justice and Labor responded that the food budget was in fact \$0.67 (4,187 guaranías) per prisoner per day.

In the same month, human rights prosecutor Juan Avalos filed a complaint with the Attorney General that guards at the Educational Center of Itagua, a facility for young offenders, routinely put 12 prisoners into cells with only 2 beds. He reported finding numerous untreated cases of scabies, a parasitic skin infection, at the facility, along with signs of malnutrition.

Female prisoners were generally held in separate facilities from male prisoners. Although some smaller institutions held prisoners of both sexes, it was government policy to hold them in separate wings.

Juvenile prisoners were generally held in separate institutions; however, in smaller, regional prisons outside the capital, adults and juvenile prisoners continued to be held together.

There were a number of instances of prisoners killing other prisoners. In April, Isidro Nunez, a prisoner transferred to Tacumbu, was stabbed during the night by a cellmate.

Corruption among prison guards remained a problem. In September, prosecutors and agents from SENAD, the anti-narcotics secretariat, began an investigation into alleged drug dealing by guards at the Regional Penitentiary in Ciudad del Este, after a police raid uncovered knives and paraphernalia for smoking marijuana.

The Government permitted independent monitoring of prison conditions by human rights organizations. Amnesty International and diplomatic representatives were granted access to prisons for announced and unannounced visits.

*d. Arbitrary Arrest, Detention, or Exile.*—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; however, arbitrary arrest and detention were persistent problems. 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. In practice the authorities did not always comply with these provisions.

The main police agency is the National Police, which is under the authority of the Minister of Interior. The police were inadequately funded, poorly trained, and generally corrupt. The Government took steps to control and punish human rights violations committed by police officers; however, the police generally enjoyed impunity for their actions. There were reports that police were involved in narcotics trafficking and provided support to the more notorious kidnapping rings. Large-scale retirements, separations, and transfers of senior police officers implemented by the new administration did not result in a noticeable improvement in services by year's end.

Under the Penal and Criminal Procedures Code introduced in 2000, once the police make an arrest they have up to 6 hours to notify the Prosecutor's Office, at which point the Prosecutor's Office has up to 24 hours to notify a judge whether it will prosecute the case.

The new code reduced the backlog of pending criminal cases, and the average length of a criminal proceeding dropped by 75 percent, resulting in a reduction of the length of pretrial detention. The average time from arrest to trial was approximately 240 days. 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 occurred 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 made periodic visits to the prisons to identify and release improperly detained individuals.

The law grants accused criminals the right to counsel; however, the Government lacked the resources to provide counsel to poor defendants, and many continued to go to trial without representation. The Government permitted criminals with access to money to hire attorneys. Inmates were allowed regular visits from family members, including conjugal visits.

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, courts remained inefficient and subject to corruption and political influence. Politicians and other interested parties often pressured judges, although the judiciary was not allied with any one political group.

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 Penal 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 Supreme Court took steps to combat corruption in the judicial system. In February, it intervened against a Ciudad del Este trial judge who freed organized crime convicts and other suspects on bail, apparently in return for bribes. The plaintiffs had been accused of tax evasion, extortion, racketeering, and arms trafficking charges. The judge was suspended without pay.

In September 2002, 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. Human rights advocates hailed this decision, which they felt would prevent defendants from avoiding prosecution by delaying their cases until that deadline. In June, the Supreme Court rejected the Attorney General's constitutional challenge of the articles in the Penal Code that limit the duration of court cases to 3 years. The courts invoked these articles to dismiss the charges against 18 military officers and others accused of attempting to overthrow the Government in May 2000 (see Section 1.c.).

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary; however, 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 several reports of the political intimidation of prosecutors attempting to investigate official corruption. In April, a judicial panel ordered the firing of prosecutor Alejandro Nissen, accusing him of malfeasance and grandstanding. The firing came the day after Nissen accused the Chamber of the Deputies president of possession of a stolen car.

In August, Basilia Vasquez, the leading prosecutor in Ciudad del Este, came under attack by cigarette smugglers. Media outlets controlled by contraband dealers published calls for a formal investigation into her actions. The Attorney General's report on the affair stated that there was no basis for the accusations.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits police entry into 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 abused their authority by entering homes or businesses without warrants and harassing private citizens. There were allegations that some government offices occasionally spied on individuals and monitored communications for partisan or personal reasons.

During the year, the Government 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 were implemented. The Government ordered all military officers responsible for recruiting to ensure that all conscripts met 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, and they experienced considerable success in implementing the policy. However, there were reported violations, including allegations that military recruiters encouraged underage recruits and assisted them in obtaining false birth certificates.

The Constitution provides for the deferral of military service for conscientious objectors, but there is no legal framework guiding the military's treatment of those claiming the status. In August, the Senate rejected a bill that would have codified the rights of conscientious objectors. Since 1993, 120,000 conscripts have been recognized as conscientious objectors. During the year, a campaign for a constitutional amendment to abolish conscription organized by a group of conscientious objectors gained strength, and General Jose Key Kanazawa, Commander of Military Forces, stated that the future of conscription was a decision for elected officials.

In September, the Ministry of Defense closed its human rights office in the wake of anonymous complaints from within the Ministry. The office had been created in 2001, as part of an agreement with the Inter-American Commission on Human Rights (IACHR).

In the same month, the Association of Families of Military Victims announced plans to open a clinic for conscripts suffering from mental problems brought on by compulsory military service. They complained that soldiers displaying mental problems were routinely interned in the Neuropsychiatric Hospital, where they were abused instead of treated. The group asked the military to provide space for such a clinic.

In May, residents of Marquetalia, a squatter settlement founded in 1999 in San Lorenzo, invaded areas surrounding their camp, seizing private homes and taking their owners hostage. The Government defused the crisis by purchasing the invaded land and turning it over to the squatters.

*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 June, a television network investigative program, "The Informer," tried to air a story accusing several Colorado Party activists of participating in a ring that counterfeited foreign currency. The party threatened to sue the network for libel. The network avoided the lawsuit by not airing the item, and the journalistic team that produced the show resigned in protest. Authorities made no official investigation into the journalists' allegations.

Chinese groups involved in contraband from the Ciudad del Este area reportedly threatened the life of *Ultima Hora* journalist Gustavo Garcia for investigating them.

The Sindicato de Periodistas journalists' union complained that media outlets regularly censored reports that did not conform to the political views of their proprietors.

In June, a Ciudad del Este television station fired journalist Nidia Farina after she criticized the city's mayor. The journalists' union claimed that the station's proprietors forced the journalist to go to the mayor's office to deliver an apology for the reports.

In June, the (IACHR) reported on the torture of radio journalist Fausto Coronel of Radio Nueva Esperanza by San Lorenzo municipal authorities for reporting on instances of corruption. The municipality blocked attempts to organize an internal investigation.

In September, Judge Marcos Kohn issued an injunction that prohibited *Telecomio*, a political satire program, from airing any material dealing with the trial of Juan Arrom and Asuncion Marti for the kidnapping of Maria Edith de Debernardi.

Libel law is applied very irregularly, and plaintiffs can often obtain a favorable ruling regardless of the merits of a case by offering to share the settlement with the judge. In March, a court ordered historian Luis Veron to pay approximately \$1,800 (11,250,000 guaranies) in punitive damages to architect Luis Fernando Pe-

reira. In one of his works, Veron criticized the design of a church developed by Pereira.

The Government did not restrict use of the Internet, nor did it censor Internet content.

The Government generally did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of 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 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. The Constitution prohibits closing roads as a form of protest; however, demonstrators did so on several occasions during the year.

The organizers of the Paraguay Libre rural movement claimed that departmental governments controlled by the Colorado Party harassed laborers in the countryside. In a 2-week period after giving a speech near Ciudad del Este, one organizer reported the theft of two vehicles and a break-in at his house.

The Coordinating Group of the National Organization of Rural Workers organized a series of peaceful demonstrations in July. Members blocked several national highways, and presented a manifesto to leaders of the Congress calling for a reduction in rural electricity charges, agricultural reforms, and the release of Raul Marin, a public defender jailed for being the leader of the Marquetalia land invasion.

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 2003 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. On the day President Gonzalez Macchi left office, Judge Hugo Sosa Pasmor barred him from leaving the country. During his term, Gonzalez Macchi was the subject of an investigation into the illegal diversion of \$16 million from liquidated banks into foreign accounts and has since been indicted for his role in the case.

The law provides for the granting of asylum and refugee status to persons who meet the definitions in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status. 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 NGO Committee of Churches. According to the Committee of Churches, there were 21 individuals with refugee status in the country, with another 11 foreign nationals whose petitions were pending. Russia, Vietnam, and Cuba together accounted for 27 of the 32 cases.

### *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 Constitution and the Electoral Code mandate general elections every 5 years with voting by secret ballot.

In February, the Senate held an impeachment trial for then-President Gonzalez Macchi on charges of corruption. The trial ended in the president's acquittal. Multiple parties and candidates contested the country's leadership positions in the April presidential and congressional elections. Five parties were represented in the Con-

gress that assumed office in July. The opposition Liberal Party won several of the departmental governorships. Debate in Congress was free and frank, and the Congress often rejected the executive branch's proposals. For the first time, the Senate came under control of the opposition. However, partisan court intervention permitted the Colorado Party to retain control of the Chamber of Deputies when a judge blocked several opposition members from taking their seats until several days after the new Congress convened, allowing the Colorado candidate for Chamber president to be elected on the first day of the session.

Observers from the Organization of American States characterized the April elections as free and fair. There were no reports of systematic nationwide irregularities, although Transparency Paraguay, an NGO, cited irregularities at several polling stations. Turnout was approximately 70 percent. For the first time in a national election, about half of voters cast their ballots on electronic voting terminals, which were less prone to manipulation than paper ballots. In response to political pressure from the Colorado Party, the electoral tribunal slightly scaled back the number of polling stations using the machines.

There are no legal impediments to women's participation in government and politics. There were 12 women in Congress (5 of 45 senators and 7 of 80 national deputies), 1 woman elected as a departmental governor, and 3 women headed 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*

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, the Government 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 children'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 continued the Council's past practice of highlighting abuses of police authority and mistreatment of military recruits and noted that an impartial and corruption-free judiciary was necessary to enforce human rights in the country.

In October 2001, Ombudsman 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.c.). His term ended during the year, but he remained in office pending the choice of a new ombudsman.

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 July, the Foreign Ministry released its first human rights report. The report claimed that civil and political rights have been consolidated in the country and called for concentrating efforts in the economic and social realm. The report noted the steep increase in poverty over the past decade and the heightened feelings of insecurity among the public in response to elevated crime rates. It also acknowledged rampant corruption in numerous public institutions, especially the courts, and noted that many citizens have grown frustrated with the democratic system.

#### *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 is punishable only by a fine. Thousands of women were treated for injuries sustained in violent domestic altercations. In recent years, there has been a trend toward the increased reporting of complaints, although statistics were unreliable.

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, although the law does not include this provision. There were no specialized police units to handle complaints involving rape. The Secretariat of Women's Affairs' 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. 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 of Asuncion. Many 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 underage prostitutes, remained a serious problem.

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.

During the year, the national military academy admitted female cadets for the first time.

Women had 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 were high, and as many as 65 percent of such deaths were related to poor health 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, 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 was very young, with an average age of 25.3 years; 38.6 percent of the population was under age 15. A survey conducted during the year reported that 42 percent of children age 14 or younger lived in poverty, and that 11 percent of children suffer from chronic malnutrition. 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. 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 2001 census found that the 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 to the increased awareness of child abuse and neglect.

Sexual exploitation of children also was a problem. In its most recent 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.

The passage of the Child and Adolescent Law in 2001 created a Secretariat level office and required municipalities to create a new office to promote the rights of children and adolescents. The Child and Adolescent Secretariat was underfunded (it had no budget appropriation for the year) and has not been very effective. However, since 2001, the number of municipalities with Child and Adolescent offices increased from 60 to approximately 120.

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 provided appropriate funding. 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. The patients were not fed adequately, in many cases receiving only bread or crackers and tea. Parasitic and skin infections were widespread and rarely treated. Children were housed with adults in the facility and were subject to sexual assaults from older patients. In a 3-week period in August and September, three patients, two of them minors, were found dead in their beds. In one case, the patient had been dead for several days before hospital staff became aware of the death. Another patient's family complained to the press that the hospital initially reported the patient had escaped, before acknowledging the patient's death several days later.

*Indigenous People.*—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. Weak organization and lack of financial resources limited access by indigenous people to the political and economic system. The Constitution also protects the property interests of indigenous people, but these rights were 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. 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.

In March, the IACHR presented to the Inter-American Court of Human Rights a complaint against the Government, involving a claim to ancestral lands by the Enxet Lengua Yakye Axa community.

#### *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, and workers exercised this right in practice. The Constitution contains several provisions that protect fundamental worker rights, including an anti-discrimination 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 requested recognition eventually received 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 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 as inconsistent with international norms. 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 anti-union discrimination; however, the 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 backlogs 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 many as 8 years ago that remained pending in the courts. The ILO and the International Confederation of Free Trade Unions criticized the lack of measures to prevent anti-union 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 allegedly 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 typically did little more than reaffirm 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 June, public employees undertook a 48-hour strike to reinforce their demand for a 35 percent salary increase. Approximately 60 different unions were involved in organizing the strike, although the number of actual protesters was less than 1,000. Only a handful of government offices closed during the strike. The Government rejected the strikers' call for a salary increase, stating that it had no money for pay raises. In August, municipal workers in Asuncion went on a 3-day strike during the inauguration ceremonies of the new President to protest the city's layoff of 700 workers.

There are 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.



*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 14 and 15 years of age may work only in family enterprises, agriculture, or apprenticeships. As of November, the Labor Code prohibits work by children under 14 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. There were reports that supermarkets employed boys as young as 7 to bag groceries and carry them to customers' cars. The boys did not receive wages and relied entirely upon tips for income. 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. In April, a child selling candies in the street was struck by a bus and killed. Some employers of the estimated 11,500 young girls working as domestic servants or nannies denied them access to education and mistreated them. In rural areas, children as young as 10 years of age often worked beside their parents in the field; according to Coeti, 88 percent of rural children in the labor force worked at home or with family members. Local human rights groups did not regard families harvesting crops together as an abuse of child labor.

*e. Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, 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 adjusted 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 \$158 (987,500 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 their health or safety without jeopardy to their continued employment, but they may not do so until the Ministries of Justice and Labor and Health recognized such conditions formally. 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; however, 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 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, and planned to undertake new initiatives in the area during 2004.

In April, there were press reports that Spanish police broke up a network that smuggled young women of various nationalities into Spain to work as prostitutes. Of the 71 women taken to Spain, 28 were from Paraguay.

In September, there were reports that a San Lorenzo prosecutor investigated the cases of young women allegedly trafficked to Argentina with false employment promises and forced to work as prostitutes. 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. Global Infancia organized a series of regional councils for the defense of the rights of children and adolescents, which freed eight girls from prostitution during the year.

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## PERU

Peru is a multiparty republic that recently emerged from a decade of authoritarian government and is undergoing a process of democratic transformation. In 2001, Alejandro Toledo, of the Peru Posible party won the presidency in elections that observers considered to be generally free and fair. The Constitution provides for an independent judiciary; however, the judiciary widely was considered corrupt and was subject to outside pressure. The Toledo 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.

The population was approximately 27.1 million. During the 1990s, economic reforms and privatizations transformed the economy into a market-oriented one. Banking and retail services, agriculture, mining, manufacturing, and fishing were key economic sectors. The Government faced continuing strong social pressures to reduce a poverty rate of 54 percent; 24 percent of the population lived under conditions of extreme poverty. Unemployment and underemployment levels totaled 56 percent, growth was uneven, and the Government lacked revenues for social investment.

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 four military recruits died under suspicious circumstances. Police on occasion 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 influence over the judiciary, problems persisted, including the general inefficiency of the system. There were accusations of isolated attempts by the Government and other entities to influence the media by threats of legal or judicial action; however, press freedom improved, and greater public attention was focused on the need for a free press. 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 restricted collective bargaining rights; however, a 2002 law addressed some of these problems. Child labor remained a serious problem in the informal sector. Trafficking in persons was a problem.

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; however, there were allegations of unlawful or unwarranted killings by police. Several of these cases involved the excessive use of force against protesters. Four military recruits died under suspicious circumstances.

On February 22, police in Piura detained Edgar Lopez Sancarranco at the local bus station, where he had gotten into an altercation with a street vendor. Police

took the detained man to the local station, where he was beaten and left behind the facility. Lopez's family arrived approximately 1½ hours later, led by Lopez's brother, a police officer, and found Lopez dead. Four police officers were accused of torture. The case went to a judge and was in its instruction phase at year's end.

On May 28, police in Quillabamba detained Julio Alcazar Dolmos, who was brought to the police station, where he gave a deposition regarding family violence with his common law wife, Silvia Campana Becerra. When a police officer looked into the room where Dolmos had been placed, 2 hours later, he saw that Dolmos had fallen to the floor and was strangling, a string from his sweatshirt wrapped around his neck. The police officer attempted first aid. Dolmos was then transferred to a hospital where he died. The original autopsy indicated that he had committed suicide; however, the large number of bruises and wounds on his body indicated otherwise. At year's end, a judge had ordered the exhumation of Dolmos' body to determine more precisely how he died.

On May 29, soldiers in Puno fired on a group of university students that were protesting the state of emergency declared by President Toledo. One student, Edy Quilca Cruz, died, and 30 others were injured. The lawyer for the deceased argued that the case should be tried in a civilian court; however, the lawyers for the Army stated that it should go to a military tribunal since the soldiers had acted under an executive command to reestablish order. In August, the Prosecutor recommended that the case be tried in a civilian court, and in September, the Supreme Court agreed. Observers contended that this decision reinforced the principle that human rights cases involving the military should be tried in civilian courts and not in military tribunals.

On July 31, Lima police officers conducting a search at a shopping center in La Victoria District shot and killed Leonel Sanchez Rivero. Police, who said they were using warning shots to disperse a crowd that had formed, claimed Rivero had been shot accidentally. The Ombudsman's Office was evaluating the case at year's end.

On November 27, one man was killed during a protest in Junin over electricity privatization, which resulted in a clash with police. Three protesters and six police officers were injured.

Abuse of military recruits remained a problem. In February, the office of the Ombudsman issued a report that stated that 56 recruits had died and 118 had suffered "cruel and humiliating" mistreatment within the Armed Forces between 1998 and 2002. During the year, the press reported several incidents of abuse of military recruits.

On June 26, Corporal Magno Ariza Paitan, a 19-year-old Army recruit, was found hanged in his barracks with marks from blows upon his head. Paitan's mother claimed that her son had complained that various officers had threatened him.

On July 7, recruit Henry Dante Martinez Ayala was found dead from hanging after complaining that army officials beat him without reason. An investigation was underway at year's end.

On August 26, Jhon Lenon Olortegui Perea, a corporal in the Army, was found dead at his guard post in Callao. The Army stated that Leon's death was a suicide; however, his family members doubted this. At year's end, the case was being investigated by the prosecutor's office in Callao.

On September 15, Corporal Freddy Campos Avendano was found dead of a gunshot wound to the head in his barracks at his military base in Chorrillos. The military and police ruled Campos' death a suicide; however, family members alleged that Campos had intended to speak to his superiors about missing munitions at his base, and that there was evidence that he had been beaten before being shot. At year's end, the military was investigating the case, which was also being evaluated by the Ombudsman's Office.

During the year, the Public Ministry began investigating the case of Andy Williams Garces, who disappeared after allegedly being shot during a police surveillance operation in Piura. In early June, the investigation concluded, and a judge accepted the case. On July 24, the prosecutor filed charges against 11 policemen for the disappearance of Garces. A trial was underway at year's end.

There were no new developments in the 2002 case in which three members of a Lima municipal patrol unit and one PNP officer detained and killed Jose Reina Rincon, a bullfighter from Spain. The Human Rights Commission (COMISEDH) was aiding the victims' relatives at year's end.

In February 2002, in San Clemente, Ica, PNP officers fired tear gas canisters at protesters from a hovering police helicopter. One protester died after being hit on the head by a tear gas container. The case was undertaken by the local prosecutor and remained in the first phase of examination at year's end.

In September 2002, police officers from the Canta Comisaria in Lima detained Gerardo Adrianzen Otarola on suspicion of raping a minor. They next day Otarola

was found dead in his cell with foam around his mouth, causing suspicion that he had been poisoned or suffocated. At year's end, the case was in the court system, and an additional charge of torture had been brought against the four police officers involved in the case.

In June 2002, two students in Arequipa, Edgar Pinto Quintanilla and Fernando Talavera Soto, died police-fired gas bombs during protests against the privatization of local electric utilities. In July 2002, William Santos Tuesta was killed in a similar manner in Puerto Maldonado. At year's end, the police officers were on trial charged with manslaughter.

There was no progress in the investigation of the September 2002 killing of Cajamarca department mayoral candidate Joselito Fernandez Perez.

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.

At year's end, the prosecutor had the case against four police officers and a military lieutenant who, in May 2001, allegedly detained, tortured, and beat Jenard Lee Rivera San Roque, who later died of his injuries.

According to COMISEDH, a prosecutor in Huarochiri was performing a preliminary investigation into the June 2001 case of Nazario Victor Valencia Porras, who died after police took him to the Matucana police station as a robbery suspect.

There were no new developments in the 2001 killings of Guillermo Navarro Rospigliosi by prison guards and Cesar Augusto Ayaucan Argedes by two police officers and a taxi driver.

In October 2001, police in Ica detained Victor Chamorro Cahua on accusations of rape. The following day, he was found dead in the police station in Pancona. The case was recently reported to COMISEDH and was being evaluated at year's end.

There were no developments in the case of Mario Clemente Guillen Mendez. In December 2000, a court in Chinchu acquitted five police officers accused of torturing Clemente Guillen to death. The victim's family filed an appeal, and the case went to the Supreme Court in January 2001.

Initial trial proceedings continued in the case of Juan Carlos Aliaga Mera, a former crewmember in former President Alberto Fujimori's presidential plane, who was found dead in the Callao Air Group 8 Complex, in 2000. His body had a bullet wound in the head and, according to the family, showed signs of brutal torture. There were no developments in the case at year's end.

In December, a court declared innocent the police officer accused of killing Nelson Diaz Marcos, who died after police in Tacna arrested him on charges of public intoxication in 2000. COMISEDH appealed the ruling.

A judge in the 2000 alleged murder case of Air Force recruit Jose Luis Poma Payano had not yet ruled at year's end.

The Government is seeking to extradite former President Fujimori from his parents' native Japan, where he fled in 2000, so that he can be tried in court 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.).

The Government continued to arrest members of La Colina death squad. Since 2001, authorities had arrested 12 members of the group, including the recent detention of Roberto Pichilingue, who had provided logistical support for the group. On November 30, U.S. authorities arrested another member of the La Colina group, Wilmer Yarleque Ordinola, and he was awaiting extradition at year's end. All other former La Colina group members in custody were awaiting trial at year's end.

In an October 15 ruling, a military court dismissed charges of extrajudicial murder against all 120 military commandos who rescued 74 hostages held at the Japanese Ambassador's Residence by members of the Tupac Amaru Revolutionary Movement (MRTA) in April 1997. The court stated that the commandos had followed orders from constitutional authorities in carrying out a military operation against terrorists. In August 2002, the Supreme Court decided that the military court system should have jurisdiction in the case of the commandos. The Court also 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 in this case. At year's end, Montesinos and Huaman were in custody, while the search for the other suspects continued.

In December 2002, 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. During the year, the Public Ministry, the only government body with the authority to reopen this case, was investigating whether to bring charges. As part of this investigation, more than 100 human remains were

exhumed, and relatives of the dead inmates were given depositions. The matter remained under investigation at year's end.

In December 2002, the Truth and Reconciliation Commission (TRC) issued its first official report, which detailed a massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho, in May 1980. The report was referred to the Attorney General for further action. In April, a criminal judge in Cangallo opened a trial against two army officers and five police officers for this crime. The Ministry of Defense also opened a trial in military court against the same officers. The matter of jurisdiction remained unresolved at year's end.

The terrorist group Sendero Luminoso continued to commit acts of violence leading to the deaths of civilians as well as military and police officials. Sendero killed eight persons during the year: five members of the police, two ronderos (members of rural peasant self-defense forces), and a community leader in the Huallaga Valley.

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

Few members of the security forces were held accountable for their role in disappearances during the war against terrorism from 1980–2000, and impunity remained a problem.

In April, PNP Commander Juan Carlos Mejia Leon and PNP officers Antonio Lopez Trujillo, Atanulfo Zamora Garcia, and Victor Eduardo Marquino Alvarado were charged with the kidnapping of Ernesto Rafael Castillo Paez, a student who was detained by the PNP in October 1990 as a suspected terrorist and then disappeared. An investigation was pending at year's end.

*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, security forces continued to torture and abuse persons. 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 that committed abuses seldom were held responsible.

Torture most often occurred 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 (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, 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 (AI) 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 10 cases of aggravated torture by security forces, compared with 8 in 2002 and 36 in 2001.

On January 23, Lima police from the Apolo Police Station shot Carlos Danilo Echenique Quevedo in the abdomen as they were attempting to disperse a crowd. Police officers reportedly offered to settle with the victim out of court, paying him approximately \$300 (1,050 soles). The Ombudsman's Office was evaluating the case at year's end.

On February 1, prison guards at the Chimbote Prison in Ancash searched inmate Wilder Escobedo Contreras' cell for forbidden articles. Eight guards reportedly handcuffed him, and beat him severely, including stepping on his head. The prosecutor was conducting a preliminary investigation at year's end.

On April 16, Lima police detained John Paolo Alvino Ricalde on suspicion of robbery. Police stated that Alvino, an 18-year-old mentally disabled person, confessed to the crime, but COMISEDH alleged that Alvino had been beaten. The Ombudsman's Office was evaluating the case at year's end.

On May 12, prison guards at the Chimbote Prison in Ancash took inmate Richard Coronado Calderon from his cell, bashed his head to the ground, and kicked him in the ribs, allegedly for being too boisterous. The Prosecutor was conducting a preliminary investigation into the case at year's end.

On June 13, police officers from Piura detained six ronderos (community self-defense groups), who were allegedly accused of torture. Police reportedly transferred the ronderos to Chiclayo where they were subject to torture, including electrical shocks.

On September 24, in Challapalca Prison in Tacna, several guards allegedly took Miguel Angel Vela del Aguila, a prisoner serving a 20-year sentence for terrorism, from his cell and beat and tortured him for 2 days. He was held in the prison's hospital clinic for 8 days before being returned to his cell.

In January 2002, 20 police officers from the Cotabambas Police Station tortured 19-year-old Renzo Vega Hidalgo. Vega had resisted arrest, and police beat him with a stick; he lost an eye as a result. The prosecutor filed formal charges against the police officers based on serious injuries and abuse of authority. COMISEDH was following the case and asked that the accusation of torture be added. The case continued at year's end.

In August 2002, police officers in Callao arrested Omar de la Cruz for alleged involvement in a robbery. After giving his statement, several police allegedly tortured him using rubber batons. COMISEDH reported that the victim's family refused legal assistance due to fear of retaliation. During the year, the victim's family decided to drop the case.

In November 2002, police in Chaclacayo detained Jair Martin Rodriguez and his brother after a series of fights in and around their home. Six police officers allegedly beat Rodriguez when he resisted being put into a cell. Rodriguez required surgery to repair damage to a finger. The Prosecutor charged the police officers with torture, and the trial continued at year's end.

In March 2002, six prison guards at the Chimbote Prison in Ancash separated inmate Alfonso Valle Oquendo from other prisoners during a morning activity and beat him brutally. The prosecutor had not submitted a formal accusation of "abuse of authority" against the prison officials responsible. At year's end, the trial continued.

The Congressional Permanent Committee heard from a subcommittee that investigated the 2000 torture of journalist Fabian Salazar. The committee discovered that Salazar possessed incriminating materials that would have damaged then-President Fujimori's chances at reelection. Fujimori ordered the retrieval of the materials. Salazar was then tortured. The committee recommended that Fujimori be charged in this case.

NGOs and the Human Rights Ombudsman continued to receive 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 four reported incidents in which military recruits died under suspicious circumstances (see Section 1.a.).

In January 2002, in Andahuaylas, a superior officer allegedly beat Freddy Cardenas Maucaylle in punishment for poor performance during a firing range exercise. The Ombudsman's Office was evaluating the case at year's end.

In July 2002, three superior officers allegedly drugged and sexually assaulted soldier Rolando Quispe Berrocal in an Ayacucho barracks. The three soldiers were charged with torture, and the trial went to criminal court. The officers responsible for the military headquarters also were accused of obstruction of justice. The Prosecutor's Office requested an extension to carry out further investigation at year's end.

In October 2002, in Piura, a superior officer allegedly kicked and beat soldier Noe Moises Canales Salazar unconscious after finding him sleeping during guard duty. Canales was released from military service, and the case was still pending in the Superior Court at year's end.

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 that impeded his ability to walk; five officers were charged with torture. The case was pending at the Prosecutor's Office at year's end.

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. The National Prison Institute controlled most of the facilities. The National Police ran the largest prisons, such as Lurigancho and Miguel Castro Castro. 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; however, human rights observers who monitored prison activity reported that torture and ill treatment of prisoners by security forces occurred. 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 approximately \$0.70 (2.70 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 approximately 29,000 prisoners at year's end. 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.

At year's end, 65 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.

In the Women's Prison in Lima, approximately 80 percent of the prisoners were detainees who had not been sentenced. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

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. Despite continued pressure from national and international human rights groups, Challapalca remained in operation.

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 visited the naval facility in Callao for the first time in 2000 and have continued since then. At year's end, the ICRC had made 84 unannounced visits to inmates in 37 different prisons, detention centers, and juvenile detention facilities.

*d. Arbitrary Arrest, Detention, or Exile.*—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. Judges must control the actions or detentions carried out by authorities, and only judges can authorize detentions, including in corruption cases. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Authorities are supposed to arraign arrested persons within 24 hours. 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. In the past, these statutes have been abused.

The PNP are responsible for all areas of law enforcement in the country. They function under the authority of the Minister of the Interior, a presidentially appointed cabinet-level position. The personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a hybrid of directorates that specialize in specific areas (kidnapping, counter-narcotics, terrorism, etc.) and local police units. While each department, province, city, and town has a PNP presence, size varied with the population of the given area and its level of criminal activity.

The PNP's effectiveness against common criminal activity was considered low. With the exception of some special units, the PNP had deficits in professionalism. Corruption, impunity, and abuse of detainees were problems (see Sections 1.a. and 1.c.).

Over the last year, the Interior Ministry and the PNP undertook reform efforts. In August, the PNP formed the Green Squad, a special unit to fight street crime. This unit carried out several high-profile, successful raids against clandestine brothels in the fall. Since 2002, the Ministry attempted to dismiss 189 police officers for bad performance, including, in some cases, alleged criminal activity. In October, the courts compelled the Ministry to reinstate the 189 officers, stating that dismissal

following previous administrative punishment constituted a form of double jeopardy. At year's end, the Ministry was considering modifications to rules that govern police discipline that would both ensure the constitutional rights of officers and also give the Ministry the flexibility to separate corrupt or even criminal police officials from the force.

In February, Congress passed a series of laws to address the problem of arbitrary detention and to enhance citizen security. One law regulates police powers during criminal investigations and states that police must report to the Public Ministry within 24 hours whenever a suspect is arrested when caught in a criminal act. The Public Ministry, in turn, must issue a report assessing the legality of the police actions. The police appeared to be reporting promptly to the Public Ministry; however, problems occurred because of delayed responses from the Ministry.

Police abuse of detainees was a problem; however, reports of such abuse declined during the year. 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 authorities to prohibit suspects under investigation for corruption from traveling abroad. Police may detain terrorist suspects for a maximum of 15 days and hold them incommunicado for the first 10 days.

During the year, the specialized terrorism chamber of the Superior Court nullified all cases dealing with terrorism and treason, including military tribunal cases. New case proceedings were initiated by this chamber in accordance with decisions of the Inter-American Court of Human Rights and of the Constitutional Tribunal. The crime of treason no longer exists. Among the prisoners affected by this ruling was Sendero Luminoso leader Abimael Guzman. Guzman's conviction to a life sentence by a military tribunal in 1992 was overturned in March. That same month, Pablo Talavera, president of the Anti-Terrorist Superior Court, announced that Guzman would receive a new trial in a civilian court scheduled for 2004.

Many detention orders remained pending against approximately 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. The TRC recommended providing legal assistance to those people against whom erroneous detention orders are pending. The judiciary acknowledged this situation, but lacked resources to launch a program. The Institute of Legal Defense initiated a study of these cases. It reviewed almost 4,411 cases in coordination with the ICRC and the specialized terrorism chamber of the Superior Court of Lima. It recommended the removal of these persons from the list because they were already detained, had multiple orders of arrest issued against them, or had already been pardoned.

The prison system continued to be plagued by sentencing delays, which the Government sought to address. At year's end, according to National Penitentiary Institute (INPE) statistics, approximately 35 percent of a total prison population of approximately 29,000 was sentenced. During the year, the Ministry of Justice appointed more public defenders to provide legal counsel to inmates in six penitentiary centers located in Lima, Trujillo, Huanuco, Ayacucho, and Ucayali. The number of lawyers available to 7,000 inmates at Lurigancho prison, for example, was increased from 3 to 22. In September, the Executive Council of the Judiciary issued a resolution that provides for 14 administrative measures to be adopted by judges nationwide in handling penal cases. These measures, which provide for the use of oral proceedings, were aimed at improving the efficiency of case handling and streamlining procedures. Finally, a program to assist the judiciary in reducing the case backlog and developing an inventory of the pending cases was expected to focus on those courts that handle cases involving inmates without sentences.

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. 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. Many of those detained under these laws complained that the cases against them were politically motivated. Government sources replied that, given the scale of the scandals of the Fujimori era, the Government had no choice but to create new prosecutor and judge positions dedicated to those cases. At the same time, the investigations carried out followed the same rules as any other.



Defendants had full access to attorneys, and the investigations against them followed all the norms of due process.

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 operated independently of the executive, although President Toledo expressed strong concern about judicial decisions dismissing charges of human rights violations and corruption against members of the former Fujimori government. Congress, the media, and the public criticized judges for controversial decisions, including those favoring members of the previous government. Polls consistently showed that the judiciary enjoyed the least public confidence of any governmental institutions; corruption and inefficiency were major public concerns.

The 4-tier court structure consists 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. In October, the IACHR held a hearing during which the Government argued that the certification process was fair, while the National Human Rights Coordinating Group, an umbrella group of human rights organizations, took the opposite view. Subsequently, the Constitutional Court found against the litigants, stating that the process had been fair.

Judicial reform continued to be a priority of the Government. President Toledo expressed strong concerns about the pace and results of the modernization process initiated by the judiciary; no tangible results were felt by the public.

In October 2002, Congress created a Special Commission for the Integral Reform of the Administration of Justice. Its members include the Attorney General, the president of the National Council of the Judiciary, a representative of the Constitutional Tribunal, the president of the Judicial Academy, the Minister of Justice, the Ombudsman, two representatives of the Justice and Human Rights Commission of Congress, and five representatives of those civil institutions that are participating in the National Accord. The Commission was supposed to submit a national plan for the integral reform of the judiciary within 180 days of its installation.

Under former President Fujimori, the executive branch pressured provisional judges and prosecutors, as their employment contracts could be canceled without cause. Subsequent investigations showed that former intelligence advisor Montesinos improperly influenced numerous judges. The majority of officials so implicated either resigned or were suspended. During the year, the CNM worked to address this problem and it carried out over five reviews of judges and prosecutors. As a consequence, the number of provisional judges and prosecutors was reduced to 45 percent, and the percentage of provisional prosecutors fell to 53.2 percent.

The justice system is 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. Although mili-

tary judges no longer try civilians, Human Rights NGOs, the Ombudsman, and the TRC all called for military justice reform.

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 by 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. On January 3, the Constitutional Tribunal ruled that many of the provisions of the anti-terrorism decree laws promulgated by former President Fujimori and used as the legal basis for convicting and sentencing to lengthy prison terms Sendero Luminoso and MRTA terrorists were unconstitutional. While convicted terrorists were not to be released as a result of this decision, approximately 900 became eligible for new trials in civilian criminal courts. The Constitutional Tribunal's ruling gave the Government "a reasonable period of time" to elaborate mechanisms for these new trials. In February, President Toledo decreed a new law that elaborated procedures to be followed in the new trials. One main provision was that evidence legally gathered in the old trial proceedings could be used in the new trials. On March 7, President Pablo Talavera of the special terrorism chamber of the Superior Court announced that there were 2,500 terrorism cases that would have to be reviewed because those convicted had been sentenced by "faceless judges." At year's end, 1,139 such cases remained to be examined.

In late 2000, the Government established a new Pardons Commission, which released 32 persons from prison during the year. NGOs advocated that the new Commission expand its review to include all convictions and sentences rendered by military courts. During the year, the Commission studied approximately 150 cases. At year's end, the Commission had reviewed 60 cases, another 60 were sent back to the judiciary for a new trial, and 30 were pending review.

In June 2001, a civilian court found U.S. citizen Lori 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 2002, 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. In March, Montesinos was found guilty of influence peddling and sentenced to 5 years in prison. Montesinos still faced other more serious charges, including money laundering, corruption, human rights abuses, and murder. In addition to Montesinos, 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. On September 2, the specialized terrorism chamber of the Superior Court sentenced all four to prison terms of between 15 and 23 years.

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. Zanatta's case was still under investigation and scheduled to be tried in a military court at year's end.

In April 2002, 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 (see Section 2.a.).

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 2002, 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 were jailed). Sendero Luminoso, however, continued to coerce indigenous persons to join its ranks (see Section 5).

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 other goods or services, or by not providing them with complete information about available alternatives. The IACHR took up the cases of 200 women sterilized under the Fujimori-era program and recommended that they receive compensation. On August 26, the Government made the first such payment to the family of a woman, Maria Mamerita Mestanza Chavez, who died in 1998 during a sterilization procedure. Mestanza's husband and seven children received \$10,000 (35,000 soles) each and a promise that those who had induced her to undergo her fatal sterilization would be investigated and, if appropriate, prosecuted. Other such cases were being considered at year's end.

*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. During the year, the Government generally tolerated criticism and did not seek to restrict press freedoms. There were, however, accusations of harassment, attacks on journalists, and threats of judicial sanctions. Alleged harassment came from a variety of sources, including the Government, political activists, and cocalero groups.

The press represented a wide spectrum of opinions, 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 sentencing for corruption charges stemming from media manipulation during the Fujimori regime.

On December 12, Chief Prosecutor Pablo Sanchez requested that Samuel and Mendel Winter (two minority shareholders of TV Channel 2) receive 6 years in prison and that Francisco and Jose Crousillat (Channel 4) receive 8 years. At the end of the year, the anti-corruption judges were considering whether or not to apply these punishments.

Although citizenship was restored to Channel 2 majority shareholder Baruch Ivcher, and a Government-named arbitration tribunal had been created to offer him compensation for the violation of his rights to nationality, ownership, due process, and freedom of expression, at year's end, no compensation had been paid.

On December 11, a court in Lima opened a new case against Ivcher. He was accused of having altered the financial records for Channel 2 to benefit one of his daughters. At year's end, Ivcher's lawyer was protesting the action to the Inter-

American Court. The court in Lima argued that while other accusations against Ivcher had been dropped, the financial case against him remained.

In February, a judge in San Francisco, Ayacucho, ordered the arrest of Nelson Palomino for "defense of terrorism," abduction, disturbing the peace, damaging public property, and organizing a group for the purpose of disturbing public order. Palomino, a coca grower leader and the owner of Kimbiri's "Double A" radio station in Cusco, advocated violent resistance to the eradication of illegal coca.

On January 28, the Superior Court of Callao freed Eduardo Calmell, the former director of *Expreso*. Callao subsequently fled the country. The corruption case against him continued in his absence.

On February 25, a Lima justice of peace granted Genaro Delgado the administration of TV Channel 5, suspending the share rights of Ernesto Schutz Sr. Schutz was a fugitive in Argentina pending extradition to Peru on corruption charges relating to manipulation of the media during the Fujimori Government. Throughout the year, Delgado sought to regain control of Channel 5 through the courts, arguing that he was the majority stockholder and the judicial administrator. After contradictory judicial resolutions, Delgado regained control of Channel 5 in August, although Schutz controlled some of the station's facilities. The followers of both sides clashed occasionally, as one side tried to dislodge the other, causing the police to deploy. Schutz's case remained pending in court at year's end.

On May 8, the Criminal Section of the Supreme Court issued two resolutions in response to complaints from Alex and Moises Wolfenson, the publishers of pro-Fujimori tabloid *El Chino* and of opposition daily *La Razon*, who had been under house arrest on corruption charges since May 2002. These resolutions allowed the detainees to work from their homes, though they remained under house arrest.

On May 27, the Anti-Corruption Superior Court fined *Gente* magazine publisher Enrique Escardo \$4,000 (14,000 soles) for his links with Fujimori's corruption network. In September, the court admitted a district attorney's request to try the *Gente* publisher for taking bribes from Montesinos and, in return, offering public support for the Fujimori government's 1996 decision to withdraw Baruch Ivcher's citizenship.

On June 25, the daughter of Nestor Puicon, the director of news program "Radio News" at Huancayo's Señorial radio station, was kidnapped. During the negotiations for her release, Puicon was told to stop criticizing the local government administration.

On July 23, Eduardo Bruce, head of the Peruvian Radio and Television Institute, the entity that administers the state media, suspended reporter David Barturen from reporting from Congress for using inappropriate language. Barturen was a reporter with government-owned TV Channel 7. He had recently published an interview in which a pro-government Congressman publicly contradicted another Congressman.

On August 18, Cesar Hildebrandt, the director of TV Channel 2's program "In the Wolf's Mouth," disseminated a clandestine, recorded audio of a private telephone conversation of President Toledo with one of his advisors. On August 19, Toledo threatened judicial procedures against those who had disseminated the tape. No subsequent action had been taken against any member of the press over this case at year's end.

On September 6, Marco Antonio Vasquez and Diego Fernandez-Stoll, reporters with Channel 2's Sunday political program "The Indiscreet Window," were detained for 3 hours for filming the Attorney General's birthday party in a public restaurant, where the reporters entered with an invitation. Their film was seized.

On September 14, journalist Cecilia Valenzuela reported that the Chief of the National Intelligence Council (CNI), Admiral Alfonso Panizo, had put into effect a plan to surveil journalists working on television program "The Indiscreet Window." On September 16, Panizo admitted that the journalists had been monitored and met with the Peruvian National Press Council to discuss the problem. The council rejected Panizo's explanations, saying that his actions had set a potentially harmful precedent. Panizo was forced to resign his post on September 17, and President Toledo announced that the CNI would be reorganized in the wake of the scandal.

On October 24, the Ministry of Transportation and Communications suspended the concession of Antarctica Investments, the company that managed Mundovision (cable channel 75), which broadcast a program by television journalist Nicolas Lucar. Mundovision representatives claimed that the Government was punishing Lucar and Mundovision for Lucar's role in reporting the story of President Toledo's illegitimate daughter. The Ministry replied that the decision was a technical one, that Antarctica had not filed the proper documents for its concession, but that it could reapply.

On December 12, journalist Rosa Maria Palacios announced that a security firm she hired had found a listening device attached to the telephone line in front of her house. At year's end, the source of the device still had not been determined. On December 18, the prosecutor in Lima opened a preliminary investigation against those who planted the listening equipment outside Palacios' residence.

On December 14, in Chimbote in Ancash, three militants from the American Popular Revolutionary Alliance (APRA) party abused reporter Edwin Azana Alejos from Channel 31. At the time, Alejos was covering internal APRA elections in Ancash.

In October, Vicente Silva, the chairman of TV Channel 10, was released, having been accused of acting as the intermediary for Vladimiro Montesinos in the latter's attempt to purchase Channel 10 for the Ministry of Defense. At year's end, several television executives were fugitives from justice, including the former major shareholder and the chairman of TV Channel 4, Jose Enrique and Jose Francisco Crousillat, the major shareholder of TV Channel 5, Ernesto Schutz, and the chairman of the board of Channel 9, Julio Vera.

One reporter, Juan de la Matta, accused of terrorism by the Fujimori government, was still in prison at year's end. Another reporter jailed on similar charges, Javier Tuamana, had his sentence commuted by a judge and was released in December 2002.

Some journalists and media outlets were reportedly intimidated during the year. According to the National Journalists Association, there were 42 cases of harassment of journalists during the year, compared with 78 in 2002. 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. A variety of sources, including local officials, coca producers (cocaleros), and unknown parties, were responsible for the incidents.

The Government did not formally censor the media, 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.

Although most demonstrations were peaceful during the year, protests in Ayacucho, Aguatia, and other areas turned violent.

On February 24, in Aguatia, police used tear gas to control a violent protest by cocaleros; 40 protesters were injured during the clash with police, and 15 were arrested. There were similar protests in other coca growing areas to pressure the Government to end coca eradication programs. On April 8, 20 farmers and 4 police officers were injured in Ayacucho during a confrontation between the 2 groups. Police used tear gas to disperse the crowd of approximately 300 cocaleros, who blocked roads and threw stones at buses, injuring passengers.

On November 20, police used force and tear gas to break up a demonstration in front of the Palace of Government by approximately 150 adolescents and children, who worked as bootblacks and sold items on the street. Four organizations representing the youth workers called for the protest to mark the anniversary of the U.N. Declaration of the Rights of the Child. Police sources said that the protest took place in a restricted area in the historical center of Lima and that the protestors became violent. NGO representatives and press accounts said police attacked the crowd and used excessive force in breaking up the demonstration, causing injuries to a number of participants.

During the year, there were frequent protests by workers asking for higher wages and by disgruntled citizens pressing for various social and economic demands. According to labor advocates, groups were able to express their opinions publicly, and the National Police generally maintained order in a lawful manner. Police occasionally used tear gas against protesters. Police arrested some protesters 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 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 extra benefits from the State in 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 2001, members of the Jehovah's Witnesses complained that the Government denied them tax exemption for imported Bibles and other religious educational material. In August 2002, a superior court upheld a May 2002 temporary suspension of the surety fees, and the Jehovah's Witnesses did not report any further problems.

During the year, the Ministry of Justice established an Office of Ecclesiastical Affairs designed to be a link between the Ministry and the religious hierarchies of all faiths. Churches were asked to register voluntarily with the Ministry so they could receive tax benefits and exemption from import duties on religious materials. Representatives of PROLIBCO complained, however, that the criteria used for official recognition effectively discriminated against smaller or more recently developing denominations, as well as against indigenous religious beliefs.

The Ministry of Education required Catholic religion courses in all primary schools, public and private. 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. PROLIBCO objected to the requirement to teach the Catholic religion in the public school curriculum, maintaining that this de facto separation of non-Catholic children from their peers was discriminatory against children who could not participate in the full range of school activities. It claimed that the alternatives available to non-Catholic parents violated the constitutional protection of privacy and confidentiality of one's convictions and beliefs. 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 also objected to the favored place that the Catholic Church enjoys in both the Police and the Armed Forces. PROLIBCO supports constitutional change that would eliminate references to the Catholic Church.

For a more detailed discussion, see the 2003 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.

The law, which was updated in December 2002, provides for the granting of status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. 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 September 30, the Catholic Migration Commission reported that 106 individuals had requested asylum or refugee status. There were another 78 persons who

arrived in the country after 2000 who were still waiting to have their refugee cases decided at year's end.

The Government did not grant asylum status to new arrivals because the Special Commission for Refugees in the Foreign Ministry had not examined cases because it was awaiting the writing of regulations for the new Refugee Law. At year's end, there were 814 refugees in the country.

Refugees can live, work, study, and exercise all fundamental rights limited only by the restrictions levied on all foreigners. Within the country, they are legally protected from reprisals. There were no acts of discrimination recorded against them. If they commit a crime, refugees receive due process. Refugees can apply to change their immigrant status, should they so desire.

*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 2000, President Valentin Paniagua took power and led a transition government after then-President Alberto Fujimori resigned and was dismissed from office.

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. 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. At year's end, the party breakdown in Congress was Peru Posible, 41 seats; APRA, 28 seats; Independent Moralizing Front (FIM), 10 seats; We are Peru/Popular Action/Union for Peru, 10 seats; Democratic Independent Group, 7 seats; Peru Now, 6 seats; unaffiliated, 4 seats; in addition, two members had been suspended. 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.

In 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. Portillo remained under house arrest, and an investigation was underway at year's end.

The 2001 modified election law established that the percentage of signatures required for the registration of a new political party was 1 percent of the voters who participated in the past election. The law prohibits reelection of a president.

In 2002, Congress voted to suspend Congresswoman Martha Chavez 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. At year's end, there was one woman serving in the Cabinet, the Attorney General was a woman, and there was one woman on the Supreme Court.

Traditionally, an elite minority of European descent held most leadership positions in government. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. It was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. Congress had one self-declared indigenous member: Paulina Arpasi of the Peru Posible party.

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 government.

*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 2002. 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 did not grant access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the Ombudsman's office.

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 and an annual report on the overall human rights situation.

During the year, the periodic special reports covered the following themes: human rights abuses during the state of emergency, the need to provide "morning after" pills in state health clinics to assure poor women access to family planning, the interest payments that citizens had to pay along with late electric bills, the difficult conditions in Challapalca prison, and the right of children conceived outside marriage to use their presumed father's last name when registering for school.

At year's end, there was an interim Ombudsman. While Congress remained unable to select a new permanent Ombudsman, the interim Ombudsman performed well, according to members of the human rights community. The Ombudsman's office actively investigated cases of alleged government abuse.

On August 28, the TRC made its final report to the Government. The report stated that approximately 69,000 persons—the majority of them ethnically Indian inhabitants of rural areas—had died during the political violence that shook the country from 1980 to 2000. The TRC said that social divisions and a history of exclusion had rendered the society vulnerable to a terrorist group like Sendero Luminoso, which it said bore overwhelming responsibility for the armed conflict of 1980–2000. The TRC found that Sendero had carried out the majority of political killings that took place during this period.

At the same time, the TRC criticized the administrations of Fernando Belaunde and Alan Garcia for their failure to exercise political control over the military. Further, it said that the military initially adopted a costly and ineffective "scorched earth" counterinsurgency campaign against Sendero that produced significant human rights abuses. The TRC distinguished, however, between the systematic abuses of human rights carried out by Sendero—abuses that were part and parcel with the group's extremist ideology—and the violations of military norms practiced by some individual military commanders. The TRC also criticized the Fujimori government for organizing military death squads (such as the Colina group) and directing them to kill both MRTA and Sendero Luminoso terrorists.

The TRC pushed the Government to reopen investigations into key legal cases, most notably the operations to free hostages at the Japanese Ambassador's residence and the case of the massacre at El Fronton prison in 1986. The TRC turned over to the Public Ministry the names of those it believed committed prosecutable human rights violations. At year's end, the Public Ministry was investigating these cases for possible prosecution. Finally, the TRC urged the Government to adopt policies of "reconciliation" that would help heal the social and cultural divides—between rich and poor, between more ethnically European and more ethnically indigenous citizens—that had rendered the country vulnerable to a group like Sendero Luminoso.



On November 21, President Toledo outlined a series of government programs to aid regions most affected by the 1980–2000 violence and to help victims, as part of a “Peace and Development Plan.” The President also offered a series of benefits to victims of the violence, including indigenous persons, military and police, and their families in the form of educational support, psychological counseling, and free housing. Victims would register to receive this support. Toledo did not, however, offer individual financial reparations, as the TRC had advocated.

*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.

On April 22, the Front for the Right to be Different, a gay rights group, began a campaign to amend the Constitution so that it would forbid discrimination against people for their sexual orientation. Homosexuals faced strong discrimination, and most preferred to remain anonymous for fear of social sanctions from their families and by society in general.

*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 stated 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 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. Aid is provided free of charge. At year’s end, MIMDES operated 38 centers staffed by both women and men, bringing together representatives of various government institutions—police, prosecutors, counselors, and public welfare agents—charged with helping victims of domestic violence. These centers had assisted 28,048 victims (including men as well as women) by year’s end. 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 as to how to process domestic violence cases. The 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 Ombudsman, many rape victims complained that 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 to personally file a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

Prostitution is legal for women over 18 years of age, 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 2002, 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. On February 27, Congress passed the Law for the Prevention and Punishment of Sexual Harassment, and on November 26, its regulations were published in official daily *El Peruano*.

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. The law prohibits the arbitrary firing of pregnant women. In December, the Congressional Commission on Justice and Human Rights began work on a Law of Equal Opportunity that would provide further protections for the rights of 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. School non-attendance 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.

According to government figures, more than 90 percent of children were enrolled in primary school in Lima and more than 80 percent in secondary school. Approximately half of the students who went to primary school continued on to complete high school. In some remote areas of the country, fewer than 60 percent of children attend school.

An INEI survey conducted during the year estimated that nearly 60 percent of the country's 10 million children under 18 years of age lived in poverty; of them, approximately 20 percent lived in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 33 per 1,000 in the year 2000 and 34.1 for 2002. According to INEI, approximately 76 percent of children not living in poverty attended school through the high-school level, whereas only 51 percent of children living in poverty reached high school. Children living in poverty averaged only 7.8 years of education compared to 9.4 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attained university-level education, compared with 15.4 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, 1,312 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 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 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. 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 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 belonged within the family and should be resolved privately. In December, the Minister of Education announced that he was separating 180 teachers from their jobs for sexual harassment of students over the last 3 years. This arose largely as the result of the demands of parents who had protested outside certain schools. The Women's Emergency Program also worked to address the problems facing children who were victims of violence.

The law prohibits sexual abuse of minors, and police enforced such laws; however, there continued to be reports of child prostitution. In May, in Trujillo, a couple was arrested for filming children for the purposes of exporting sex videos to Europe. In October, a young woman was rescued from a clandestine brothel in Trujillo, a highly publicized case that focused public attention on underage prostitution and trafficking in persons (Section 6.f.).

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 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.

In March, the Government initiated a campaign whereby the disabled could register themselves and receive benefits, including merit points for obtaining government contracts, price breaks for cultural activities, and exonerations from certain taxes. The Government also announced the formation of the Biomechanical Aid Bank, a mechanism for helping the disabled who were poor to afford wheelchairs and other compensatory devices to improve their mobility. While the campaign was well intentioned and did focus more attention on the disabled, in overall practice, the Government devoted little attention and resources to persons with disabilities. Many such individuals remained economically and socially marginalized. Many poor persons with disabilities in Lima lived by begging in the streets.

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.

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.

During the year, the MIMDES completed a study of access issues for persons with disabilities in 235 public buildings in Lima and Callao. The MIMDES study found that, while some buildings had ramps, bathrooms and other features were “a torture” for those with disabilities. On October 23, MIMDES, in conjunction with Federico Villareal University and the Ministry of Housing, opened a campaign called “Friendly Structures” that was dedicated to finding resources to improve this situation.

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.

*Indigenous People.*—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 non-marketability 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.

Other factors also contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate 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 population and the centralization of government in Lima further limited the access and participation of indigenous people in society. Indigenous rights groups also complained that indigenous persons in rural areas did not have adequate access to public services, particularly health and education.

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.

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 established a National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs in October 2001. It is assigned to the office of the president of the Council of Ministers. The Commission had 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. Congress also had its own Committee on the Amazon Region and Indigenous and Afro-Peruvian Affairs that was designed to address the needs of the indigenous communities.

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 coerced indigenous peasants into joining its ranks and demanded war taxes. In December 2002, the Government announced that the police would attempt to rescue the members of at least 200 families, primarily from the Ashaninka indigenous group, who were believed to be held captive by Sendero Luminoso forces in the central jungle areas of Junin and Ayacucho. During the year,

police rescued approximately 40 of these families—over 70 persons—from enslavement by Sendero. On September 10, the police freed 24 Ashaninka Indians near Satipo, in Junin Department.

*National/Racial/Ethnic Minorities.*—The law criminalizes racial discrimination, 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 included several racial minorities, the largest of which were 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.

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 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. Approximately 5 percent of the formal sector workforce of 8.49 million belonged to organized labor unions. There were approximately 13 million economically active persons in the country, but only about half of those had permanent, full-time employment.

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 non-membership. 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 2002, Congress passed a law that addressed some of the International Labor Organization's (ILO) primary objections to the 1992 labor law. The reformed labor 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.

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 labor law passed in December 2002 addressed some of the ILO's objections to former legislation on collective bargaining. Unions complained that the Employment Promotion Act had eliminated the right of dismissed workers to compulsory reinstatement if they proved that employers had dismissed them unjustly. In practice, companies sometimes offered financial compensation instead of reinstatement as the legislation allows. Although the Employment Promotion Act had prohibited companies from firing workers solely for involvement in union activities, this provision had not been enforced rigidly.

On November 3, the Government announced regulations for the Law for Domestic Workers, passed 5 months previously. This law applies to a large, overwhelmingly female population (estimates of the number of domestics ranged as high as 2 million) that worked in childcare and housekeeping. In the vast majority of cases, domestics lived with the families for whom they worked. The new law regulates the hours of domestic workers (48 hours per week for adults, 36 hours per week for workers age 15–17 and 24 hours per week for minors age 12–14), provides them the right to a contract (which can be either written or verbal), assures them participation in the national health plan, and provides minors working as domestics the right to attend school, among other benefits. However, the Ministry of Labor's limited

ability to inspect the conditions of domestic workers on this large, informal sector is likely to reduce the law's effect.

On December 23, President Toledo issued an executive decree that provided restitution or compensation to 10,251 state workers dismissed as the result of various privatizations of state enterprises during the Fujimori years. This was the third and final in a series of three such announcements. The awards were expected to benefit a total of 28,000 former government employees. Benefits vary from case to case. Some workers will get their old jobs back, some will receive retirement, and others will be moved to new jobs or be entitled to retraining. The estimated cost of the proposal was \$60 million (210 million soles). Funds for the project still need to be appropriated, although it was thought that some funding may come from moneys recuperated in anti-corruption cases.

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 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 labor law passed in December 2002 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. During May and June, a strike by the Teacher's Union (SUTEP) and agricultural workers paralyzed activity in several districts of the country and caused President Toledo to declare a state of emergency. After 7 weeks and some clashes between protesters and police, both groups returned to work. The teachers received the promise of a pay increase that raised the average teacher's salary from \$200 to \$214 (700 to 750 soles) per month. Both groups attempted to strike again in September, when the Government was slow to deliver on its promises to the teachers.

The teachers got their wage increase, although the Minister of Agriculture rejected the demands of the agricultural workers.

In September, civil construction unions also went on strike, demanding the right to bargain with the Chamber of Construction Companies collectively, a principle recognized by both the Ministry of Labor and the Supreme Court. During the Fujimori era, construction companies had bargained with union leaders by project and not by activity. The construction unions won a modest increase in salary and, more importantly, the right to industry-wide collective bargaining.

The law restricts unions that represent workers in public services deemed essential by the Government from striking.

There are 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, including by children, and there were no reports of forced labor during the year. 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 have helped to address 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. At year's end, the Ministry had granted 1,020 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The Ministry granted 1,142 such permits in 2002 and 1,175 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 approximately 600,000 children were under the age of 12.

Human rights 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.

The search for work frequently put children on the move. Significant numbers of children from rural areas, most of them female, often were moved to cities where they lived and worked in families as domestics. Although their hours were supposed to be limited (children age 12–14 work 4 hours a day, 24 hours a week, and adolescents age 15–17 work 6 hours a day, 36 hours a week) and their right to attend school ensured, in practice there was no method for assuring that such regulations are followed. Employers frequently extracted far longer hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20–30 (70–105 soles) per month.

NGOs and other observers also maintained that the country suffered a growing problem with adolescent prostitution (see Section 5). There was not a reliable statistical base to determine the extent of adolescent prostitution, but some informed observers believed the problem was growing worse, and recent police raids on clandestine brothels demonstrated the presence of adolescent sex workers.

Adolescents must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. 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 conducted 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 September, the Government raised the statutory minimum wage from \$117 (410 soles) a month to \$132 (460 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 INEI'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. A February 2002 law 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 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.*—Various laws prohibit trafficking in persons; however, trafficking in persons was a problem.

The 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 kidnapping, sexual abuse of minors, and illegal employment were enforced and could also be used to sanction traffickers in persons. There



were no government programs to educate vulnerable groups about the dangers of trafficking or to assist victims. The International Organization for Migration worked with Movimiento El Pozo, an NGO dedicated to helping prostitutes, to use a \$115,000 grant to produce a rigorous, scientific study of trafficking in the country.

According to immigration authorities, there were no cases of international trafficking of persons during the year. The Missing Persons Division of the PNP reported that it had one case of sex trafficking of adolescent girls during the year. Authorities asserted that organized trafficking did not, to their knowledge, occur.

In contrast, NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring young women from the Amazon district or the Sierras into the cities or into mining areas to work as prostitutes. This trafficking did not operate through formal criminal networks, but instead took place through informal networks that could involve boyfriends and even the families of the young women who were its victims.

NGOs and various elements of the Government undertook efforts to address this problem during the year. The Ministry of the Interior signed an agreement with the Foundation for Missing Peruvians, making that organization the official registry for missing persons in the country. In August, police formed a special unit called "The Green Squad" to respond to citizen complaints. Working together, police and the Foundation for Missing Peruvians carried out a series of raids against clandestine brothels in the fall, including, in October, the rescue of an underage young woman from an illegal brothel in Trujillo.

## 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' St. Kitts and Nevis Labour Party won all 8 St. Kitts seats of the 11 seats in the legislature, and he 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 is independent.

The security forces consist of a small police force, which include a 30-person Special Services Unit that received some light infantry training, a coast guard, and a small defense force. Military forces patrol jointly with the police. The forces were controlled by and responsive to the Government. Some members of the security forces committed human rights abuses.

The mixed economy was based on sugar cane, tourism, and light industry. The country's population was approximately 47,000. Most commercial enterprises were privately owned, but a state corporation owned the sugar industry and 85 percent of arable land. The economy had a mixed performance during 2002, as some sectors enjoyed positive growth while others experienced varying levels of decline. The construction sector recorded a 4.5 percent decline, manufacturing and hotels and restaurants also recorded significant declines of 4 and 10 percent respectively, and sugar production fell by 5.1 percent. The unemployment rate was estimated at 5 percent. Real economic growth was 0.75 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Poor prison conditions, opposition complaints about access to government-controlled media, and violence against women were the principal problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports 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.

The police force continued to conduct its own internal investigation when complaints were made against its members. There were 5 complaints filed through August, most involving indecent language.

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 to 155. In September, it held 166 prisoners; some prisoners slept on mats on the floor. A low security prison on Nevis held 29 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 prison provided voluntary work and education programs.

In October, prisoner Olieto Bartlette died from injuries sustained from an alleged beating while incarcerated. A police investigation found that Bartlette was bludgeoned by his cellmate, a violent criminal imprisoned for life, after an altercation.

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.

The police force consists of 370 officers (72 officers in Nevis), with 27 auxiliary members. Senior officers investigate complaints made against members of the police force, and criminal offences are referred to the Director of Public Prosecutions. Before prospective officers are hired, the force conducts a background investigation in the candidate's home district, often interviewing the local parish priest and school principal. If the background check is satisfactory, the candidate must then pass an entrance exam and medical exam. Once hired, officers undertake 6 months of instruction at the local police training school. Starting in 2004, officers will receive human rights training based on resources provided by the International Red Cross.

The Constitution does not address forced exile, but 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 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. In September, there were 52 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 was no system of parole, due to resource constraints. Prisoners typically received reduced sentences of up to one-third for good behavior.

In October, the legislature began debate on draft legislation that would empower the courts to pass noncustodial sentencing such as discharges, suspended sentences, probation orders, and community service orders.

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.

#### *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 opposition People's Action Movement (PAM) party alleged that the ruling Labour Party blocked PAM's access to the Government controlled media. The PAM acknowledged, however, that it had access to independent media outlets.

One daily independent newspaper published Monday through Friday. There were four 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. Several privately owned radio stations also operated.

In December, the Government abruptly withdrew permission to sponsor and broadcast local Carnival events from an independent radio station after reporters from the station investigated politically sensitive incidents related to Carnival management. A government-affiliated broadcaster was given exclusive rights.

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.

In September, PAM leaders received a court summons for having a public gathering without a permit. PAM officials alleged they had requested a permit and the Government knew about the gathering, but deliberately refused to issue a permit.

*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 2003 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 exists. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

### *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 opposition 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 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 Island 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. During the year, the Nevis Assembly again proposed secession and initiated formal constitutional procedures to hold a referendum on the issue. While opposing secession, the Government acknowledged the constitutional rights of Nevisians to determine their future independence.

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 be 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 11-seat National Assembly, 1 woman in the Cabinet, 3 of 4 magistrates were female, the court registrar was female, and 6 of 11 permanent secretaries were female. In addition, in Nevis, one cabinet member and the president of the House of Assembly were female. The Government participated in an Organization of American States program to encourage the participation of women in leadership roles, with a focus on politics. The program aims to have one-third of high government positions filled by women.

*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. The Domestic Violence Act criminalizes domestic violence, including emotional abuse, 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 counselors, and other government employees. In addition, the Permanent Secretary of the Department of Gender Affairs participated in a weekly radio program to discuss gender issues, including domestic violence. The Department reported 12 cases of domestic violence through September. 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 the Viola Project, a program to encourage young mothers to complete their education, which had 15 participants. 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.

Sexual harassment was a problem. A law covering sexual harassment was proposed in the legislature, and it was awaiting its second reading at year's end, while government, private sector, and labor advocates discussed its provisions and possible impact.

*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. As of September, the authorities had brought charges in 10 cases involving alleged sexual activity with minors and 2 cases of incest.

*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. During the year, the Government committed to include blind and visually impaired persons in the National Development Plan, which emphasized opportunities in education and employment.

*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.

The law prohibits anti-union discrimination but does not require employers found guilty of such action to rehire employees fired for union activities. The employer, however, 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. If a union obtains membership of over 50 percent of employees at a company, the union can apply to be recognized by the employer for collective bargaining. The employer may request a poll from the Ministry of Labor but must accept the final results. Collective bargaining takes place on a workplace-by-workplace basis, not industry-wide. 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 are 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 were 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 in the 1966 Employment of Children Ordinance. The ordinance outlaws slavery, servitude, and forced labor. The minimum legal working age is 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. Kittitian society does not consider domestic work as exploitative 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 under the 1986 Protection of Employment Act. Child labor laws were to be incorporated into a nationwide Labor Code.

*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 (EC\$180) per week for full-time domestic workers to \$166 (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, or other activities. 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. There were no reports that persons were trafficked to, from, or within the country.

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 varied 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.

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## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The head of state is 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 represent the majority party in the bicameral Parliament, exercised most of the power. In generally free and fair elections in 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 is independent.

The Royal Saint Lucia Police is the only security force and includes a small unit called the Special Services Unit (which had some paramilitary training) and a coast guard unit. The civilian authorities maintained effective control of the security forces. There were occasional allegations that members of the security forces committed human rights abuses.

The country’s market-based economy depended upon tourism and banana exports as the principal sources of foreign exchange. The population was approximately 160,000. Although economic growth declined in 2001 and 2002, it improved during the year. Revenue from tourism (the sector that held the most potential for economic growth) increased by 4.7 percent in the first half of the year, compared with the same period in 2002. In 2002, the real economic growth rate was 0.1 percent and the rate of inflation was negative 0.2 percent; unemployment in 2001 was 18.9 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some allegations of physical abuse of suspects and prisoners by the police; long delays in trials and sentencing, domestic violence against women, and child abuse also were problems.

## RESPECT FOR HUMAN RIGHTS

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

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

The Government concluded its investigation into the 2000 killing by police of escaped prisoner Alfred Harding. A court acquitted the police officer due to lack of evidence.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. Although no official complaints were filed, prisoners and suspects complained of physical abuse by police and prison officers.

Prison conditions generally met international standards at the new Bordelais prison, which has a capacity for 500 prisoners. In August, it housed 460 prisoners, and the Government had filled 125 of a total of about 150 staff positions. It has separate facilities for females, young offenders, and those awaiting trial. It also has space set aside for rehabilitation programs and a magistrate's courtroom, although training and rehabilitation programs have not yet started due to the staffing shortage.

In August, eight female prisoners were housed at Bordelais. A boys' training school housed juveniles between 12 and 18 years of age; it operated separately from the prison.

The Government permitted prison visits by human rights observers.

*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.

In 2002, the police force, with assistance from a team of British experts, prepared a 5-year plan, which included community-based policing, crime prevention, increased professionalization, and attention to complaint investigation and internal review. During the year, the Police Commissioner launched the community policing initiative and increased the level of professional and customer service training. Police mobility was enhanced when the South Korean Government donated 15 new vehicles. As of August, the police force had 800 officers, with 50 more in training.

There was no constitutional requirement for a speedy trial, but every Wednesday the Government used the magistrate's court located 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 were likely to 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 may 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 are entitled to select their own legal counsel, are presumed innocent until proven guilty in court, and have 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. The Government has hired five new magistrates since 2001 for a total of nine. The average time for a trial was 3 to 6 months in the magistrate's courts and 6 to 12 months for criminal cases.

Unlike previous years, there were no reports of incidents of vigilante justice.

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.

*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 five 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.

In November, the Parliament passed a controversial Criminal Code that included a section on "spreading false news." It states that any person who publishes a statement that he or she knows is false or that causes or is likely to cause injury to a public interest could be imprisoned for up to 2 years. At year's end, no journalists had been convicted under this law, but local media outlets and the opposition party voiced their disagreement with the clause. The Association of Caribbean Media Workers also criticized the law.

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.

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

On May 2, a court found the two Rastafarians who attacked parishioners at a Catholic Mass in December 2000 guilty of murder and arson and sentenced them to hang.

For a more detailed discussion, see the 2003 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. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum.

*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. Citizens last exercised that right in generally free and fair elections on December 3, 2001, when Prime Minister Anthony's SLP defeated the United Workers Party (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 prosecuted crimes of violence against women only when 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. In 2002, 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. As of September, she reported 31 cases of domestic violence for the year. The victims were 29 women and 2 men. Most of the cases were referred to a counselor, and the police facilitated the acquisition of court protection orders for some. 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. As of August, the Crisis Center reported 35 cases of domestic violence, including physical, emotional and sexual abuse. During the year, the Women's Support Center, a government shelter for abused persons, received 105 crisis calls and offered residential services to 24 clients and 27 children. The center also engaged in an active community outreach program that included visits to schools, health centers, and community centers.

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 dropout 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 relatively high; it received 13 new cases involving child abuse as of August. The St. Lucia Save the Children Fund (LUSAVE) reported receiving an average of three calls per day from abused children and documented numerous incidences of children as young as 10 giving birth as a result of sexual abuse. LUSAVE also claimed to have evidence of child pornography, including the rape of minors recorded on video for sale. 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.

*Persons with Disabilities.*—No specific legislation protects the rights of persons with disabilities or 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 36 percent of the total work force was unionized. The law prohibits anti-union discrimination by employers, and there were effective mechanisms for resolving complaints. The law also requires that employers reinstate workers fired for union activities.

Unions were independent of government control and were free to choose their own representatives. Union elections were often vigorously contested. 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 regulates internal union governance. It also provides that an employer must recognize a union if the union obtains the support of 50 percent plus one of the employees at a particular business. Since the act 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 often precluded 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. At year’s end, a draft was submitted to the legislature and a vote was pending. 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.*—No laws 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, is the titular head of state, with largely ceremonial powers. 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 judiciary is independent.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit with some paramilitary training. The security force was controlled by and responsive to the Government, but some members of the security force committed human rights abuses.

The market-based economy was small, weak, and heavily in debt. The country's population was approximately 115,000. The country was reliant on bananas, which account for upwards of 60 percent of the workforce and 50 percent of merchandise exports, although the growing tourism sector has become the leading earner of foreign exchange. The low price of bananas has given rise to increased marijuana production. Unemployment declined to an estimated 25 percent, and real gross domestic product increased by 1 percent in the first half of the year, compared with an increase of 0.7 percent in 2002.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. 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.

### 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.

*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 September, a senior police officer at the Port Elizabeth Police Station reportedly beat a resident of the island of Bequia, Garnet Shallow. According to Shallow, the police accused him of stealing a woman's purse but later found the bag and released him. Shallow never made a formal request for a police investigation of the incident.

Prison conditions were poor. Prison buildings were antiquated and overcrowded, with Her Majesty's Prison in Kingstown holding more than 351 inmates in a building designed for 75. These conditions resulted in serious health and safety problems. Pretrial detainees and young offenders (16 to 21 years of age) were held with convicted prisoners, although the Government was building a new facility for them and hiring new prison officers at year's end.

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 also noted that police and guards conducted sporadic, infrequent, and inefficient searches of the prison. In September, the

Prison Superintendent acknowledged these problems but claimed that the drug smuggling and violence were dramatically reduced after a series of reforms, which included random searches, an order for the public to stay 100 yards away from the prison wall, and the addition of a social worker and psychologist to work with the prisoners.

The Superintendent of Prisons 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 92 guards for 348 male inmates. A rehabilitation program allowed inmates to receive contracts and jobs with local entrepreneurs. A school program offered courses in carpentry, tailoring, baking, and mechanical engineering.

Inmates were allowed to speak freely with their lawyers, but a human rights lawyer asserted that there was a 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 the officer must be within sight of the inmate, and space constraints prevented the officer from standing beyond earshot.

Plans announced in 2002 to build a new \$4.8 million (EC\$13 million) prison in Bellisle were still in the negotiation stage.

There were 13 female inmates held 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. Plans to place 40 to 50 first-time offenders in Fort Charlotte foundered because the prison system did not have the financial resources to transfer the prisoners.

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.

The Royal St. Vincent Police has an overall force of 691, including 57 in the fire service, 74 in the coast guard, and 20 cadets. There is also a small Special Services Unit with some paramilitary training, which occasionally was accused of using excessive force. The Government established an Oversight Committee to monitor police activity and hear public complaints about police misconduct. The committee reported to the Minister of National Security and to the Minister of Legal Affairs and actively participated in investigations during the year. In September, the Saint Vincent and the Grenadines Human Rights Association (SVGHRA) conducted a seminar on human rights for police cadets.

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.

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 could 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 such actions, and the Government generally respected these prohibitions in practice.

In June, police searched the house of Donna Gibson, who alleged that they did not produce a warrant. The police told her they were searching for a George Lambert, and Gibson claimed not to know the man. Police officials said they had a warrant, but it mistakenly identified George Lambert as the owner of the house instead

of Gibson. The Oversight Committee determined that indeed the search was improper; but that Mr. Lambert was known to frequent the house and that the search was conducted without undue roughness. The police apologized to Ms. Gibson.

*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. The Government recently adopted a policy to distribute advertising revenue equally among the major newspapers.

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 2002, 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, involving allegations that Gonsalves misused public funds. 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.

In September, the police refused to grant permission for an New Democratic Party (NDP) march. NDP leaders claimed that the decision was politically motivated, but police officials said that permission was not granted for security reasons and because the NDP did not adequately explain the reasons for the march. Ultimately, the NDP held the march, which was not impeded by the police.

*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 enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

For a more detailed discussion, see the 2003 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 exists. In practice, the Government provided protection against refoulement, but did not routinely grant refugee status or asylum. A Red Cross representative served as the honorary liaison with the office of the U.N. High Commissioner for Refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a long history of multiparty parliamentary democracy. The Constitution provides for general elections at least every 5 years.

The 2001 elections were held in accordance with an agreement brokered by members of the Caribbean Community, after demonstrations and internal pressures stemming from allegations of fraud in the 1998 election. 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.

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 2001, voters elected two women to Parliament; they also served as cabi-

net 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. During the year, women made over 1,000 reports of physical, sexual, emotional, and other domestic violence. Development banks provided 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 sentence for rape generally was 10 years to life in prison.

The amended Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. 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 in 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, as well as parenting and support programs for young adults aged 15 to 25. Four trained counselors staff it. At year's end, the staff was working on a system to maintain a database of cases.

*Children.*—Education is not compulsory, but the Government investigated cases in which children were withdrawn from school before the age of 16. The Government planned to phase in compulsory education with the construction of adequate facilities; it built two new schools during the year. 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 500 youths were enrolled in this program, earning a stipend of about \$148 (EC\$400) a month, to which private sectors employers contributed additional amounts in some instances. 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. The Family Services Department, Ministry of Social Development, was the government agency responsible for monitoring and protecting the welfare of children. The Department reported 51 cases of sexual abuse, 55 cases of physical abuse, 112 cases of neglect, and 22 cases of abandonment during 2002. The Department planned to initiate a National Child Abuse Register in 2004 to provide information to all agencies dealing with child abuse. 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 have 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 anti-union 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.

There are 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. The only recognized child labor was 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 revised during the year. They vary by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture the minimum wage for workers provided shelter was \$9.26 (EC\$25) per day; industrial workers earned \$11.11 (EC\$30) 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 did not meet from 1989 to 2001.

The law prescribes workweek length according to category; for example, industrial employees work 40 hours per week, professionals work 44 hours per week, and agricultural workers work 30 to 40 hours per week. The law provides a minimum annual vacation of 5 to 14 days for agricultural workers, depending on the number of days employed during the year. Industrial workers receive 8 to 21 days of vacation, depending on the number of days employed during the year and the worker's length of service with the employer.

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 pro-

posed to limit the exposure of agricultural workers to hazardous substances. Trade unions addressed some violations regarding 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 comply with these regulations would constitute a breach, which might cover a worker who refused to work under these conditions.

The International Transport Federation (ITF) lists the country among those that provide a “flag of convenience” to shipping companies. The ITF claims that many such ships were old and dangerous, and that crewmen were often exploited and underpaid. The ITF’s 2001–02 Campaign Report cited a locally registered shipping company for failing to pay crewmen for 6 months, denying employment contracts, and locking crewmen who complained about unpaid wages in their cabins without food.

*f. Trafficking in Persons.*—No laws specifically address trafficking in persons. There were no reports that persons were trafficked to, from, or within the country during the year.

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## SURINAME

The Government is still in the process of consolidating 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, although extremely inefficient, was independent.

The armed forces are responsible for national security and border control, with the Military Police having direct responsibility for immigration control at the country’s ports-of-entry. All elements of the military were under the control of the Minister of Defense. Civilian police bore primary responsibility for the maintenance of law and order and reported to the Ministry of Justice and Police. During the year, due to increasing crime, the Government implemented Operation Safe Suriname whereby the military jointly patrolled with police to maintain security in the capital, as well as in remote communities near large commercial enterprises. During its previous term in office, the Venetiaan Government purged several officers and supporters of former dictator Desi Bouterse from the ranks of the military. Bouterse’s NDP won 10 seats in the National Assembly in 2000, 1 of which he occupied. Since the 2000 election, the NDP’s influence within the military has declined steadily, although Bouterse still retained influence with some military officers. The civilian authorities maintained effective control of the security forces. Members of the security forces committed some human rights abuses.

A census conducted during the year reported the country’s population at approximately 480,000. The economy depended heavily on the export of bauxite derivatives. 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 people and lack of government control of the interior. It had a serious negative environmental impact and deleterious consequences on the health of the indigenous people. Estimated gross domestic product grew by approximately 1 percent. By year’s end, the inflation rate was estimated at 20 percent, compared with 28.3 percent in 2002. Poverty was widespread; it was estimated that 50 to 60 percent of families lived below the poverty line.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police mistreated detainees, specifically at the time of arrest; guards abused prisoners; and local detention facilities remained overcrowded. The judiciary suffered from ineffectiveness and a huge case backlog due to the shortage of judges, resulting in lengthy pretrial detention. Media self-censorship continued. Societal discrimination against women, minorities, and tribal persons persisted. Violence against women continued, and while the Government took steps to combat trafficking in persons, trafficking in women and girls remained a problem.



## RESPECT FOR HUMAN RIGHTS

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

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

The Government did not address past abuses, which continued to be a focus of concern.

Despite reported interest by the Venetian Government, there was no investigation into the 1986 massacre of more than 50 civilians at the village of Moiwana. In 1997, Moiwana '86, a nongovernmental organization (NGO) established as a watchdog on this and other human rights issues, took the case to the Inter-American Commission on Human Rights (IACHR), which gave the Government until December 1, 2002, to report on the status of its investigation. The IACHR forwarded the Moiwana case to the Inter-American Court on Human Rights after receiving no response from the Government.

The 3-year investigation ordered by the Court of Justice into the 1982 killings by the Bouterse regime of 15 prominent political, labor, business, and media leaders continued throughout the year. The presiding judge drew up a list of more than 30 suspects, with Bouterse as the prime suspect; local officials stated that the case would likely be tried in 2004.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, the Government had yet to investigate allegations of certain 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 documented cases of police mistreatment of detainees, particularly during arrests, and abuse of prisoners by prison officials during the year.

Citizens filed 203 cases with the Police Personnel Investigation Department (OPZ), the majority of which were for physical mistreatment (see Section 1.d.). The authorities arrested 24 officers and disciplined 145 for various offenses. Fourteen officers were charged with brutality and relieved of their duties. Police officers who were not trained in that work served as the jailers at local detention facilities, which human rights groups asserted contributed to the abuses.

Prison conditions were poor, and in many cases they did not meet international standards. There were three prisons and several detention facilities at police stations where detainees were held until appearing before a judge to be charged or to stand trial. Human rights activists were concerned about conditions in the prisons, especially in local detention facilities, which remained overcrowded. At police stations, prison officials 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 generally no consideration given for persons requiring a specific diet for religious reasons. Human rights monitors reported that guards mistreated detainees, and that medical care and living conditions were inadequate. Members of the police and prison guards beat prisoners who complained about their lack of access to exercise and fresh air.

Violence among prisoners was common, and the authorities generally 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. In August, the Government installed a commission, which included representatives from a human rights group, to investigate the prison system.

There was a wing of an adult prison for boys under age 18 who committed serious crimes. Juvenile facilities for boys between the ages of 10 and 18 within the adult prison were considered adequate, and educational and recreational facilities were provided. Conditions in women's jail and prison facilities were generally better than those in the men's facilities. There was no separate facility for girls under the age of 18; girls were held in the women's detention center and in the women's section of one of the prison complexes.

Since 1996, Moiwana '86 has monitored the conditions of prisoners. Representatives of the group reported that in general they had access to prisoners and received cooperation from prison officials on routine matters during the year. The authorities granted the group permission to visit prisons on a regular basis, on the condition that they request permission from the proper authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, prisoners who appealed their cases often served their full sentences due to the lengthy appeals process resulting from the lack of judges. The Attorney General's Office reiterated its concern that prisoners who served their entire original sentence were not released on a timely basis. Defense lawyers often utilized an article of the Code of Criminal Proceedings that allows a judge to release a suspect if the case against the accused appears weak.

The police force (Korps Politie Suriname) is comprised of 1,200 police officers and 400 to 500 civilians and is divided into 4 departments: judicial (intelligence, forensics, fraud, narcotics, investigative), general, Paramaribo, and interior (outside of Paramaribo). Police effectiveness was hampered by a lack of equipment and training, low salaries, and poor coordination with other law enforcement agencies. During the year, police conducted limited joint operations with the military in areas of the country that lacked a police presence. Corruption remained a problem, and senior officers met monthly with the Attorney General's Office to review corruption and other cases against the police. The OPZ is responsible for investigating complaints against officers. It recommends whether an officer should be punished internally or if criminal charges should be brought. During the year, six police officers were taken to court for narcotics violations and corruption; of this number, five received jail terms ranging from 2 to 5 months.

The law provides that the police may detain an individual for investigation for up to 14 days if 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 brought to trial. The average length of pretrial detention was 30 to 45 days for lesser crimes, and the maximum 164 days for more serious crimes. Detainees were often held in overcrowded detention cells at local police stations. A steadily growing number of persons who already have been convicted but not yet placed in prisons, due to a lack of space in prison facilities, continued to be held in police custody or pretrial detention cells. Pretrial detainees, who constitute a large percentage of inmates, routinely were held without being brought before a judge.

The military police continued to observe the legal requirement of handing over civilians arrested for committing a crime in their presence to the civilian police. During the year, the investigation of a weapons theft from a military depot was handed over to the civilian police, because all suspects in the case were civilians.

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. 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. In addition, the President had yet to appoint a president of the Court of Justice; the acting president has been in his position since 2000. The judiciary was significantly hampered by a lack of judges, which limited the effectiveness of the civilian and military courts. There were seven permanent judges and five deputy judges for the entire country.

The judicial system consisted of three lower courts, two specialized courts, an appeals court, and the Court of Justice or Supreme Court. The Constitution calls for the establishment of an independent constitutional court; however, discussions to enact such legislation continued in the National Assembly due to concerns that the Constitutional Court would have the authority to overturn decisions of the Government. Other problems faced by the judiciary include financial dependency on the Ministry of Justice and Police and hence the executive branch, lack of professional court managers to oversee the courts' administrative functions, and lack of space. These obstacles caused a significant case backlog. The courts required a minimum of 6 months to process criminal cases and at least 1 year to process civil cases. Civil cases were resolved approximately 3 to 4 years after being heard by the courts.

The Constitution provides for the right to a fair, public trial in which defendants have the right to counsel. The courts assign private sector lawyers to defend indigent prisoners, paying the costs from public funds. However, court-assigned lawyers, of whom there were 14, generally only appeared at the trial, without prior consultation with defendants. According to Moiwana '86, these lawyers often did not appear

at all. In practice, the courts freed detainees who were not tried within the 164-day period, in accordance with the law.

Military personnel generally are not subject to civilian criminal law. A member of the armed forces accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. The military courts follow the same rules of procedure as the civil courts. There is 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 prohibits such actions, and the Government generally respected these prohibitions in practice. 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. 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 in practice. Some media members, however, continued to practice occasional self-censorship due to a history of intimidation and reprisals by certain elements of the former military leadership, and to pressure by senior government officials and other important community leaders on journalists publishing negative or unflattering stories about the administration.

There were 3 daily newspapers, 11 television stations, and approximately 25 radio stations. Three television stations and two radio stations were publicly owned. Three companies, one owned publicly, provided cable television, which included foreign channels.

In April, the Ministry of Transport, Communications, and Tourism threatened to suspend a radio station for 48 hours for broadcasting a report that the President's wife had filed for divorce, alleging that this violated the station's licensing agreement and a government resolution on privacy. Instead of closing the station, the Ministry issued a severe warning.

Journalists and media entities often faced harassing lawsuits by public figures, such as one filed by a former Cabinet member against a journalist who exposed a sexual harassment case lodged against the official. The libel case was postponed, and the Cabinet member received a 1-year suspended sentence.

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. In March, there were small demonstrations in front of the Vice President's office by nurses and autobus owners. There were also two large demonstrations obstructing the major east-west road by unemployed banana workers.

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 2003 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice. Political dissidents who emigrated during the years of military rule were welcome to return, although few 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 to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, in the past the military prevented its effective exercise. Although the military twice in 1987 and 1991 transferred power to elected civilian governments following coups, 2000 marked only the second time since the country's 1975 independence from the Netherlands that one elected government succeeded another in accordance with constitutional provisions; the previous time was in 1996. The Government is still in the process of consolidating democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly in turn 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. Various parties and two political coalitions were represented in the National Assembly. President Venetiaan formed his 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 are 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, with a woman serving as the Vice Chairperson of the National Assembly. The Cabinet included women in the positions of Minister of Foreign Affairs, Minister of Internal Affairs, and Deputy Minister of Social Affairs. In 2001, the first female member of the Court of Justice was sworn in.

Although the Constitution prohibits racial and religious discrimination, several factors limit the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and Amerindians in the political process. The majority of the country's political activity takes place in the capital, Paramaribo, and a narrow belt running east and west of it along the coast. The Maroons and Amerindians are concentrated in remote areas in the interior, and therefore have limited access to, and influence on, the political process. In the 2000 elections, voters elected eight Maroons and one Amerindian to the National Assembly. There were no Maroons or Amerindians in the President's Cabinet.

*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. 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. There continued to be societal discrimination against persons with HIV/AIDS. Hospital workers and other health professionals were reluctant to treat infected persons.

*Women.*—Violence against women was a problem, which the Government had not addressed specifically. The law does not differentiate between domestic violence and other forms of assault. The law prohibits nonspousal rape. 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 addressing the extent of the problem. In 2002, the NGO, Stop the Violence Against Women Foundation, 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. There were approximately 300 abuse cases reported to the foundation during the year. 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 in 2002 in Paramaribo, to provide better services to crime victims.

The law prohibits sexual exploitation but not prostitution. 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, held against their will, or having their passports retained by brothel owners to ensure fulfillment of work contract obligations (see Section 6.f.).

There were various laws used to prosecute perpetrators of sexual harassment. During the year, a Cabinet Minister was pressured to resign after receiving a 2-month suspended sentence for violation of decency in a sexual harassment type case lodged against him by a contestant in a beauty contest.

Women have the legal 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 2002 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.

The National Gender Bureau in the Ministry of Internal Affairs prepared an Integral Gender Action plan for 2000–2005 and appointed a program manager for gender policy in 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 limited resources to ensure safeguards for the human rights and welfare of children. School is compulsory until 12 years of age, although some school-age children did not have access to education due to a lack of transportation, building facilities, or teachers. Although school attendance was free, most public schools were forced to impose a nominal enrollment fee, ranging from \$4 to \$24 (Sf10,000 to Sf60,000) a year to cover costs. Families were required to supply uniforms, books, and miscellaneous supplies. If a family was unable to pay, the Government provided assistance. Approximately 80 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 50 percent actually attended school. Children faced increasing economic pressure to discontinue their education to seek employment (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 equally.

There were continuing reports of malnutrition among poor children, but it was difficult to quantify the extent of the problem. There were several orphanages and one privately funded shelter for sexually abused children in the capital, where 50 percent of the country's population was concentrated. 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 sexually abused. In 2002, the local NGO Bureau for Child Development (BCD) began a campaign against child sexual abuse in a newspaper and on the radio to increase awareness. BCD continued its campaign during the year in cooperation with the Bureau for the Rights of the Child at the Ministry of Social Affairs, which resulted in an increase of cases reported to the Ministry. However, the Police Youth Department reported no increase in the number of sexual abuses it received. In July, one woman received a 2-year sentence for prostituting her 11-year-old daughter.

The legal age of sexual consent is 14; however, it was not enforced strictly. In March, the National Assembly adjusted the Asian Marriage Law to raise the age of consent from 13 to 15 for girls and 15 to 17 for boys. The law also mandated the presence of a Civil Registry official to register the marriage. All individuals must be 30 years old to marry without parental permission.

*Persons with Disabilities.*—There were no laws concerning persons with disabilities, no provisions for making private or public buildings accessible to them, nor any laws mandating that they be given equal consideration when seeking jobs or housing. Some training programs were provided for the blind and others with disabilities. In general, persons with disabilities suffered from discrimination when applying for jobs and services.

*Indigenous People.*—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. Following demonstrations in 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. This resulted in a promise of quarterly meetings to monitor implementation of the 2001 Lelydorp Accord, which superseded the 1992 peace accords. During the year, the Government integrated 10 former Jungle Commando members into the police but had not implemented the native land rights portion of the agreement.

The Maroon and Amerindian populations continued to face problems with illegal and uncontrolled logging and mining.

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.

In 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. Due to the IACHR's interest in the case, the Chinese ceased their activities and the Government granted permission to a Chinese company to restart a palm-oil factory in the eastern part of the country. The company also received permission for large-scale logging in concessions around the factory. The Maroon communities in the vicinity of the factory protested and threatened to use violence if the Chinese began logging activities. Human rights and environmental groups monitored the joint venture activities of SURALCO and BHP Billiton, which were planning to mine bauxite and generate hydropower in the western part of the country.

Maroon and Amerindian groups continued to cooperate with each other in an effort 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 want the Government to honor provisions of the peace accords with the Jungle Commandos 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 Suriname Labor Party has historically been a very influential force in government.

The law prohibits anti-union discrimination by employers, and there were 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, such as theft and frequent absenteeism. 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 (ILO) 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 generally 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 occurred often as workers attempted to regain wages lost to inflation and arrears in payments.

There were several strikes during the year. Teachers conducted a 1-day strike to protest the increase of prices of primary goods. Nurses began a strike but returned to work after 1 day when the Government threatened to adhere to a previously established “no work, no pay” principle and to take the union to court. Other strikes involved private companies where the unions negotiated labor conditions.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including labor by children; however, a local NGO reported that child prostitution existed.

*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 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, a 2002 survey conducted by the Institute for Training and Research found that 50 percent of children between the ages of 4 and 14 were economically active, working mainly in the informal sector. The Government has not ratified the ILO’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 approximately \$138 (Sf386,000) per month. This salary level did not 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. 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.*—Dated “white slavery” laws prohibit trafficking in persons; however, the laws rarely were enforced and applied only to women and children, and trafficking in persons was a problem. The 1914 Police Criminal Law prohibits solicitation, but the law is not enforced. Existing laws prohibit sexual exploitation but not prostitution.

There were reports of trafficking in women and girls to and through the country for prostitution. Several night clubs in the capital reportedly recruited women from Brazil, Colombia, Guyana, and the Dominican Republic.

The police had informal agreements with many “hotel” or brothel owners allowing them to proceed with their business. However, police conducted random checks to ensure that women were not mistreated, that no minors were present, and that owners did not keep the women’s airline tickets and passports. During the year, there were fewer than 10 reports of brothel owners retaining passports and airline tickets to uphold contract obligations. In such cases, the police assisted these women to return to their country of origin at their own expense. In 2001, one club owner in Paramaribo was convicted in Brazil for trafficking in women.

The Public Prosecutor’s Office and the police established a registry of all brothels and their employees by nationality. The Public Prosecutor’s Office, in cooperation with police officials, extended services provided to victims of domestic violence to possible trafficked victims and in May established a “special victims’ unit” and a telephone hot line to handle all cases from the commercial sex industry. The Government established an anti-trafficking commission, comprised of various ministries and a local NGO and headed by the Ministry of Justice and Police, to study trafficking.

## 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. In October 2002 general elections, Prime Minister Patrick Manning's People's National Movement (PNM) secured a 20–16 seat victory over the United National Congress (UNC), breaking an 18–18 tie in Parliament and ending a 9-month parliamentary stalemate. The judiciary is independent.

The Ministry of National Security oversees the police service and the defense force, rendering them responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the Police Service, and the Ministry had little direct influence over changes in senior positions. While the civilian authorities maintained effective control of the security forces, some members of the security forces committed 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 11 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 Central Bank projected the economic growth rate to be approximately 3.2 percent for the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were police killings during apprehension and while in custody, and there were reports of police and guard abuse of prisoners. Poor prison conditions and significant violence against women remained problems.

### 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 political killings; however, the police killed a number of persons during arrest or questioning, in circumstances that were under investigation.

On May 25, media reported that a police officer shot Gideon Edwards, who apparently had become mentally deranged. Police alleged he wielded a knife during the incident. The next day, police officers shot and killed two persons in a drug raid. On May 27, police shot and killed two men, one in Toco and another in Port of Spain; the latter was an outpatient at a mental hospital. On May 31, police killed a man in Bagatelle when he tried to escape questioning. Police conducted investigations, and inquests or final disposition were pending at year's end.

On September 5, police in San Fernando arrested Shaun McLeod, age 23, for using obscene language. The police allegedly beat McLeod while in custody, and he died the same evening at San Fernando General Hospital. An autopsy revealed McLeod died of blunt trauma to the head. After an investigation, the authorities arrested a police constable and charged him with manslaughter; his trial was pending at year's end.

The Department of Public Prosecutions (DPP) indicted three prison officers in connection with the 2001 death of prisoner Anton Cooper. A magistrate's court established a prima facie case of murder, and the guards were jailed awaiting trial at year's end.

In October, a jury found former cabinet minister Danraj Singh not guilty for the 1999 slaying of politician Hanraj Sumairsingh.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Criminal kidnappings for ransom were a growing problem.

*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. In November, an Amnesty International (AI) team visited the country and found evidence of "rough" treatment of suspects. After walking tours of neighborhoods, they stated that the police were "obviously roughing up suspects."

In May, Uriel Mitchell claimed masked police officers repeatedly beat him with electrical cable and kicked and slapped him during an interrogation at his Chaguanas home. In June, Lendl Perez, a resident of Gasparillo, said that police



entered his home and proceeded to pistol-whip and kick him before taking him into custody. Police charged Perez with resisting arrest and denied any wrongdoing.

Residents of the Laventille and Sea Lots neighborhoods claimed police and army units, conducting raids in May, harassed and beat residents during their neighborhood sweeps. The police claimed to have shot their guns in the air to frighten the residents. Residents of El Soccoro made similar claims in June.

In September, Port of Spain resident Trevor Jack claimed he was brutally beaten by police while in custody on charges of shoplifting. He was treated at San Fernando General Hospital for broken ribs and a ruptured spleen. Police officials promised a full investigation into Jack's claim.

In September 2002, prison authorities opened an investigation into claims by death row inmate Damian Ramiah that he had been severely beaten by prison officers in July 2002. Prison authorities said that an inquiry recommended an officer be put in charge of an investigation of the officers alleged to have participated in the beating. At year's end, Ramiah remained in custody, and his claims were still being investigated.

In December 2002, 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. The DPP indicted Saran and his accomplices, and the case was in process at year's end.

On December 15, San Fernando's High Court awarded Selwyn Murray \$21,125 (TT\$130,000) for police brutality that occurred in April 2001. He was arrested for alleged possession of marijuana and was held overnight for delinquent spousal maintenance payments. The police beat him, breaking six ribs and inflicting additional injuries to his ankles, wrist, chest and forearm. The following day, Murray had to have surgery on his lung. The High Court's award comprised a pain and suffering package of \$14,700 (TT\$90,000) and a landmark \$6,550 (TT\$40,000) further penalty for the police brutality.

Prison conditions were poor. The Frederick Street Prison in Port of Spain, which was built in 1812, was designed for 250 inmates but held approximately 900 prisoners at year's end. 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 entire prison system held 3,991 inmates as of October. Prison overcrowding continued to be a problem. A maximum security prison, opened in late 1998, had an intended capacity of 2,450. However, as of October it held approximately 785 inmates and had done little to relieve the overcrowding in the detention system.

Pretrial detainees were held separately from convicted prisoners, although they could be in the remand section of the same facilities as convicted prisoners.

Women were held at a separate prison facility where conditions 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.

In June, 75 prisoners staged a riot in the prison attached to the San Fernando Magistrate's Court. Criminal Investigation Division officers, along with Crime Suppression Unit officers and firemen quelled the uprising. The prisoners claimed they had been abused and that guards had stolen their possessions.

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.

The national police force is divided into nine countrywide divisions and had 5,896 members. It is headed by a commissioner who is appointed by the Police Service Commission, after consultation with the Prime Minister. Municipal police, who are under the jurisdiction of 14 regional administrative bodies, supplement the national service. In October, the Government announced formation of a Special Crime Fighting Unit, composed of police and Defense Force personnel, to address public concerns over the high rate of violent crime, kidnappings for ransom, and other security issues.

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, Police Service Commission restrictions limited the authority's ability to dismiss police officers. Recent governments agreed that there was a need for reform because the commission inhibits the way the Commissioner and his senior staff may discipline offending officers operationally.

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 may and customarily did 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 have the authority, under the Summary Courts Act, to grant bail to individuals charged with summary offenses.

In April, the courts freed six men who had been sentenced to prison terms longer than the law permitted. The Summary Courts Act provides that magistrates must limit multiple-offense consecutive prison terms to a maximum of 3 years. The six men, freed in April, had received consecutive sentences on their various charges for longer than 3 years. In one instance, an inmate served an additional 6 years beyond the 3 years required by law.

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 is divided into a Supreme Court of Judicature and the Magistracy. The Supreme Court is composed of the Court of Appeal and the High Court; the Magistracy includes the summary courts and the petty civil courts.

All criminal proceedings commence with the filing of a complaint in the summary court. Minor offenses are tried before the magistrate. For more serious offenses, the magistrate must conduct a preliminary inquiry. If there is sufficient evidence to support the charge, the accused is committed to stand trial before a judge and jury of the High Court. All civil matters are 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 generally enforced this right. All criminal defendants have 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 reduced its trial backlogs, but they remained significant at the magistrate court level. To help improve efficiency, the courts used 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. After 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 Privy Council 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. At year's end, the Government had not determined what to do with approximately 100 persons affected by this ruling.

The 2000 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, 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 2002 elections. In 2002, Panday was

arraigned in Magistrate's Court; after continued legal filings and postponements, the case was adjourned until March 2004. 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.

*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.

A Board of Film Censors is authorized to ban films that it considers to be against public order and decency or contrary to the public interest. This includes films that it believes 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 meeting 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 is 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 must meet standard requirements for an entry visa, must represent a registered religious group, and may 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 Muslemeen, some members of which attempted a coup in 1990. The Government's surveillance focused on the group's links to crime, potential activities leading to civil unrest, and the actions of some members who traveled to Libya as students.

For a more detailed discussion, see the 2003 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. 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. In practice, the Government provided protection against refoulement and 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 six cases of persons who fell outside the definition of the U.N. Convention and its Protocol. On January 14, authorities detained three men from Cote d'Ivoire for entering the country illegally and handed them over to the NGO. In addition, the NGO housed two women from Guyana and a Cuban citizen who also requested asylum. The Government denied asylum to the Cuban.

*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 are held at intervals not to exceed 5 years, and elections for the Tobago House of Assembly occur 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. Voters in the 2002 general elections supported the PNM, which retained control of the Government. The UNC has called repeatedly for constitutional reform to address what it considers imbalances in the distribution of political power. Until the Government addresses constitutional reform, the UNC has followed a policy of "total noncooperation" with the PNM. In the July local elections, the PNM won 9 electoral districts and the UNC won 5.

There were no specific laws that restrict the participation of women or minorities in government or the political parties. The PNM and UNC have numerous female party leaders and members, and both parties have appointed women to cabinet positions in their respective governments. During local elections in July, 50 of the 126 PNM candidates were women, and 7 of the 9 city councilpersons elected in San Fernando were women. 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. There were 11 women in the 31-member Senate and 6 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 Tourism, 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 domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views; however, the Government responded strongly to AI'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 can make recommendations but does not have authority to force government offices to take action.

In 2002, 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, stating that the executions in question had been carried out in accordance with applicable law, and continued to pursue measures to block having to comply with the ruling.

#### *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.*—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. The Government also improved aid for victims. In February, the Attorney General opened a regional conference on gender-based violence and the administration of justice to review the legal system's response to gender-based violence with a focus on police training and supporting services. 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. 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 are criminal offenses. A rape crisis center offered counseling for rape victims and perpetrators on a voluntary basis. The Government operated a 24-hour domestic violence hotline, which received calls and re-

ferred victims to shelters, counseling, or other assistance. The hotline was for victims of rape, domestic violence, or other violence against women and received approximately 2,698 calls through September, although 1,182 were identified as prank calls.

Prostitution is illegal, and the authorities continued to monitor and pursue prosecutions against persons charged with soliciting for the purpose of prostitution.

There are no laws pertaining to 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 was virtually equal to that of men.

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.

The Domestic Violence Act provides protection for children abused at home. Abused children removed from the home 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.

A 2000 law establishes the upper age in the definition of a child at 18 years of age, abolishes corporal punishment as a penal sanction for children under 18, and prohibits 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 acts had not yet been proclaimed, as the Government was taking steps to appoint a board to manage the new authority.

*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 provided direct services to members or clients with disabilities. During the summer, a number of persons with disabilities protested outside the gates of National Flour Mills over what they claimed were discriminatory hiring practices by the company; the protest ended when company officials and government authorities promised to look into their concerns.

*Indigenous People.*—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 lived 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 approximately 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 anti-union 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 anti-union 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.

*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 anti-union complaints filed.

All employees except those in "essential services," which include the police and many other government employees, have 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. In January, major public hospitals in San Fernando curtailed their services when doctors staged sick-outs to protest workplace safety and collective bargaining arrangements. During August and September, workers at Carlisle Wheel and Manufacturing walked out on their jobs to protest employment terms. In September, DPP prosecutors staged a sick-out to protest lack of resources and inadequate staffing that, according to them, hampered their ability to prosecute criminal matters effectively.

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 are 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 such practices occurred. 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 is 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.

In March, the Government ratified ILO Convention 182 on elimination of the worst forms of child labor; however, it had yet to enact the relevant enabling legislation by year's end.

*e. Acceptable Conditions of Work.*—In January, Parliament approved an increase in the national minimum wage to \$1.30 (TT\$8.27) 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 establishes 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 are no laws that specifically address trafficking in persons, the illegality of such acts is covered broadly in a variety of laws that address kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports that persons were trafficking to, from, or within the country.

## URUGUAY

The Oriental Republic of Uruguay is a constitutional republic with an elected president and a bicameral legislature. In 1999, voters elected Senator Jorge Batlle of the Colorado party President in free and fair elections; 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 more than 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 exercised effective control over the security forces. Some members of the security forces committed some human rights abuses.

The economy, which began recovering from a 4-year recession during the year, is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The country's population is estimated at 3.4 million. The leading exports are meat, leather, and rice. The unemployment rate was 16 percent; the economy contracted by 10.5 percent in 2002 and did not grow during the year. Inflation rose significantly to 14.1 percent in 2002 and was 13 percent during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports of police violence, including abuse of prisoners in the jails and police stations, prison conditions were poor, and 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. Trafficking in persons was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, one prisoner died after allegedly being struck by guards (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.

In May, a court ordered the release of former Minister of Foreign Affairs, Juan Carlos Blanco, having absolved him of deprivation of liberty charges in connection with the disappearance of Elena Quinteros, who was allegedly abducted from the Venezuelan Embassy in 1976. In June, the Government filed new charges of aggravated homicide against Blanco in connection with Quinteros' death. By year's end, Blanco had not been reincarcerated, and the charges remained pending.

*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 then disappeared during the dictatorship; however, the first three administrations following the return to democracy consistently refused to do so.

In 2000, President Batlle created a National Peace Commission to clarify the fate of citizens believed to have disappeared for political reasons during the dictatorship. The Commission received and analyzed information relative to 32 Uruguayans and 6 Argentines. On April 10, the final report was presented to President Batlle. Although the Commission did not meet with armed forces representatives, the report indicated that the Commission received and reviewed all information available in the country, as well as information from foreign embassies. The report confirmed human rights violations such as torture, illegal arrests, and detentions in clandestine centers during the military dictatorship. It prepared individual summaries of

its conclusions on each disappeared person and recommended 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 dead. The Commission's preliminary report—published in November 2002—concluded that the fate of 20 percent of the missing citizens was probably cremation and burial at sea. The information on the fate of the disappeared detainees was made available only to the victims' families, to the President, and in one case (the Blanco case) upon request to the judiciary.

*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. In July, two cases of police abuse of detainees in Maldonado resulted in the arrest and conviction of nine policemen. 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 that included 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 during the year. Overcrowding increased due to worsening budget problems, an influx of new prisoners at the rate of 200 per month, and the partial destruction of Canelones prison during a riot in August. There were 7,100 prisoners in prison facilities designed to hold only 2,940 prisoners, causing sanitation, social, and health problems in the major facilities. The Libertad prison destroyed in a riot in 2002 continued to house hundreds of prisoners despite its official capacity of zero. As a temporary solution, the Government resorted to holding 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, but these new cells were not occupied by year's end. National Prisons Director Enrique Navas stated that the prison system was on the edge of collapse.

In addition to overcrowding, the penal system suffered from understaffing, corruption, and physical violence. Prisoners were not always separated according to the severity of their crimes. Narcotics, weapons, and cell phones were smuggled into several facilities, allegedly with the official collusion. Family visitation, in which family members carry in food to supplement a prisoner's diet, was allowed but was made difficult as the family members were strip-searched in unhygienic conditions and subjected to invasive searches.

In May, the Parliament's Committee on Human Rights began an investigation into prison conditions, which followed a hunger strike by inmates protesting the death of a 19-year-old prisoner, held in connection with the theft of less than \$7.50 (200 pesos). The prisoner died after allegedly being struck by prison guards. Proposals from committee members to alleviate overcrowding included a plan to turn some prisoners over to the military for housing and a change in pretrial statutes that would require a judge to look at the potential sentence an accused faces in determining the maximum time for pretrial incarceration. In September, President Batlle promulgated a law creating a legislative committee to ensure that prison conditions comply with international norms.

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 the small population and the availability of training and education opportunities.

Minors were held in institutions operated by the National Institute for Minors (INAME). Juveniles who committed serious crimes were incarcerated in juvenile detention centers, which resemble traditional jails and have cells. 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.



The Government—citing safety reasons—did not permit general prison visits by independent human rights observers during the year; however, the Government permitted inmate visitation and visits from foreign diplomats.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice. The law 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 National Police number approximately 30,000 officers with broad jurisdiction under the direction of the Ministry of Interior. The police have a hierarchical structure with the Chief of Police, Director of Intelligence Unit, and Director of the Drug Unit reporting to the Vice Minister of the Interior. The Minister of Interior has attempted to reform the police by creating a service mentality and moving toward a community-policing model; however, low salaries resulted in petty corruption and officers taking second jobs to support their families. New police officers earn \$130 (3,610 pesos) per month and 15-year veterans earn \$180 (5,000 pesos) per month.

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.

The authorities reportedly indicted more than 400 police officers in the last 4 years for violations ranging from corruption to abuse.

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. 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. 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, between 65 and 70 percent of all persons incarcerated were awaiting a final decision in their case. However, only those committing more serious crimes were actually jailed while waiting for the judge to investigate charges. The majority of persons 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 normally are not made public. 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.

Parliament continued delaying the implementation of a 1997 law to reform and modernize the Criminal Code. The law provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and an accelerated pace for criminal trials.

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, and the Government generally respected these provisions in practice; however, the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.”

The independent media were active and all elements of the political spectrum freely expressed their viewpoints in both print and broadcast media. However, 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. In 2002, there were reports of at least two journalists who were fired for criticizing the Government too harshly.

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.

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 protested the Government’s decision to criticize 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, the war in Iraq, 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.

The most significant reported incident of harassment was an outbreak of anti-Semitic graffiti in several neighborhoods in Montevideo. This was traced to a small neo-Nazi group in the capital, which was quickly broken up. Following a complaint filed by Tolerancia Si (Tolerance Yes), a nongovernmental organization (NGO), the members were prosecuted under the country’s strict hate crimes law and sentenced to brief jail terms.

For a more detailed discussion, see the 2003 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. In practice, the Government provided protection against refoulement and granted refugee status. 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. However, the country lacks a formal mechanism for determining third country resettlement requests submitted by UNHCR. The Government grants temporary protection 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.

*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 becoming the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together controlled more than half of the seats in the legislature.

Women participated actively in the political process and government, although primarily at lower and middle levels. 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. With the exception of an alternate deputy, there were no Afro-Uruguayans in Congress.

*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.

*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 problem. 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 hotline answered by trained NGO employees for victims of domestic violence. 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.

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 some 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.

A small institute in the Ministry of Education coordinated government programs for women. There were a number of active women's rights groups, and many of their activities remained centered on follow-up 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. INAME oversees implementation of the Government's programs for children but received 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 hotline 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. Health care is free to all citizens, and 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.).

While not yet a major problem, the incidence of sexual exploitation has increased in recent years. According to the NGO Casa de los Niños, commercial sexual exploitation of children between the ages of 11 and 15 occurred mostly in the states bordering Brazil and Argentina. Authorities believed that this trafficking was specifically for prostitution and pornography. There was also concern about possible child prostitution rings in Montevideo and the resort areas of Punta del Este and Maldonado.

In 2002, 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. Anecdotal evidence also 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.

Prostitution is legal in the country, 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—was responsible for creating the national plan of action, 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 nearly 6 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. Afro-Uruguayans 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 organized and operated 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 (more than 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 anti-union 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. Unions maintained that organizers were dismissed for fabricated reasons, thus allowing employers to avoid penalties under the law.

Allegations by workers against the Government concerning anti-union measures, brought at the International Labor Organization's (ILO) Governing Body meeting in March 2002, 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 chose 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 anti-union discrimination, but a 1993 executive decree established fines for employers engaging in anti-union 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 tended to impose indemnization levels that were 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" was 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.

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 nonprofessional 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.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child Labor Code protects children, and the Ministry of Labor and Social Security is responsible for enforcing this law. Enforcement has proven difficult due to a lack of resources and the fact that the majority of child labor is in the informal sector (which accounts for 40 percent of total employment in the country). Some children worked as street vendors in the expanding informal sector 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 stricter 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 provide food vouchers of \$36 (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.

*e. Acceptable Conditions of Work.*—The Ministry of Labor enforces a legislated minimum monthly wage that covers both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The min-

imum wage, set in September at approximately \$43 (1,194 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it did not provide a decent standard of living for a worker and family. The vast majority of workers earned 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, 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 cases involving trafficking of women and child prostitution (see Section 5). Irregular border controls also limit the collection of trafficking statistics. Officials believe that trafficking mostly affects women between the ages of 18 and 24. Suspected traffickers have been prosecuted in the past on charges of corruption, conspiracy, fraud, and other felonies. The Ministry of the Interior has primary responsibility for investigating trafficking cases. The Government prosecuted 10 cases related to trafficking in the past decade; however, no convictions were obtained.

There were no reliable estimates on the number of women who worked as prostitutes abroad—generally in Europe and Australia—or on the proportion that 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.

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## 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, voters elected President Hugo Chavez of the Fifth Republic Movement (MVR) in generally free and fair elections. The MVR and the pro-Chavez Movimiento al Socialismo (MAS) party won 92 seats in the 165-member legislature; subsequent party splits reduced the pro-Chavez members to 83 seats. In December 2000, in a manner that some observers criticized as unconstitutional, the National Assembly named members of the Citizen Power and Supreme Court. In August, the Supreme Court appointed a transitional CNE after the National Assembly failed to do so. 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.

From December 2002 to February 1, opposition groups led a national work stoppage to demand the resignation of the President. The strike failed. On May 29, after months of negotiations under the Organization of American States’ (OAS) auspices, government and opposition representatives signed an agreement that committed both sides to follow the Constitution and laws and acknowledged the constitutional right to hold recall referenda if legal criteria were met. On August 20, opposition groups submitted 3.2 million signatures gathered in February petitioning for a referendum on the presidency. On September 12, the CNE declared the petition invalid. The opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall the President and more than 70 legislators. The verification process for all collected signatures was underway 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, and 5 of the 14 presidential cabinet members previously served in the military. The presidents of two major state-owned corporations—Corporacion Venezolana de Guayana and Corporacion Zulia—are active duty military officers, and one was placed in charge of the maritime operations of the state-owned oil company in response to the national work stoppage. 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. 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 collects intelligence. Municipal mayors and state governors are responsible for local and state police forces and maintain independence from the central Government. The Caracas Metropolitan Police is the main civilian police force in the five municipalities that form the Federal District and is headed by a career police officer, rather than a military officer. While civilian authorities generally maintained control over security forces, individual members of the security forces committed numerous and serious human rights abuses during the year.

The population was approximately 25 million. The country has abundant natural resources and a mixed agricultural/industrial, 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 economy was in its second year of severe contraction, estimated at a decline of 10–12 percent, compared to an 8.9 percent contraction in 2002. Government statistics placed the unemployment rate at approximately 18 percent; however, about 52 percent of employed adults work in the informal sector of the economy. The petroleum sector provides the vast majority of foreign exchange earnings, although participation of employees of the state-owned oil company in the national work stoppage crippled production during the first quarter of the year. Despite a significant recovery in oil income and resulting tax revenue for the Government, the country faced ongoing deficits and other financial difficulties. Private economists estimated the government deficit for the year could reach as high as 6 percent of gross domestic product.

The Government's human rights record remained poor; although there were attempts at improvement in a few areas, serious problems remained. The police and military committed extrajudicial killings of criminal suspects. The police reportedly had links to vigilante death squads responsible for hundreds of killings in at least 11 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 severe overcrowding constituted inhuman and degrading treatment. Arbitrary arrests and detentions increased. Impunity was one of the country's most serious human rights problems. Crimes involving human rights abuses did not proceed to trial due to judicial and administrative delays. Corruption, lengthy pretrial detention, and severe inefficiency in the judicial and law enforcement systems also were problems.

The Government conducted illegal wiretapping of private citizens and intimidated political opponents. The President, officials in his administration, and members of his political party frequently criticized the media, the political opposition, labor unions, the courts, the Church, and human rights groups. Many government supporters interpreted these remarks as tacit approval of violence; they then threatened, intimidated, and physically harmed individuals from groups opposed to Chavez during the year. The Government abused its legal power to call national radio and television "chains" by requiring all television and radio stations to air over 136 hours of speeches by President Chavez and other government officials, and other programming favorable to the Government. Violence and discrimination against women, abuse of children, discrimination against people with disabilities, and inadequate protection of the rights of indigenous people remained problems. The atmosphere for independent labor unions deteriorated due to the Government's ongoing confrontation with the Venezuelan Workers Confederation (CTV) and fired petroleum sector employees. Child labor increased as economic conditions worsened. Trafficking in persons was a problem, although the Government took steps to reduce corruption among immigration authorities.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—At least a dozen killings during the year may have been politically motivated. Members of the political opposition received death threats and were the victims of intimidation by government supporters. Security forces were accused of committing extrajudicial killings, primarily of criminal suspects. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a human rights nongovernmental organization (NGO), documented 130 extrajudicial killings from October 2002 through September, compared with 137 killings from October 2001 to September 2002. 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 police often failed to investigate crimes allegedly committed by their colleagues and, in 2002, the Government created a separate system for investigating and bringing to trial criminal cases that it deemed political. During the year, one such political case, that of Joao De Gouveia, who shot and killed three individuals present at an opposition rally in December 2002, resulted in a conviction. Prosecutors alleged that unsecured crime scenes, poor investigative techniques, and constantly changing or inexperienced personnel ensured that political cases were delayed indefinitely or had a pre-ordained result. In addition, the civilian judicial system struggled to implement the 1999 Organic Criminal Procedures Code (COPP) and remained highly inefficient and corrupt (see Section 1.e.).

On February 16 and 17, the bodies of three soldiers and one woman were found with hands tied and mouths taped shut. All had died from gunshot wounds. A young girl who had been shot and left for dead was found with the corpses. The soldiers had links to a group of dissident military officers who sought to establish an opposition headquarters in the Altamira neighborhood of Caracas in October 2002. Homicide division prosecutors initially began the investigation, only to have the case reassigned to the special police unit and prosecution team in charge of political cases. Police had several suspects in custody, and the investigation continued at year's end.

On April 12, Carlos Manuel Pico Gutierrez was killed under unknown circumstances. Neighbors testified that he had been injured by a police unit formed by four men.

On April 26, pro-government Fatherland for All (PPT) party leader Jorge Nieves was killed in Apure State. On September 23, another PPT-Apure leader, Edgar Patino, was killed. On October 1, Apure State PPT and farm worker leaders accused the terrorist Colombian National Liberation Army (ELN) of the killings. National PPT leader Jose Albornoz disputed the accusation, calling it baseless and imprudent. At year's end, no suspects had been arrested or charged with the killings.

From January through August, eight ranchers were kidnapped and later killed. Their abductions did not follow the region's usual pattern of kidnapping for ransom of a wealthy victim. At times, the kidnapers demanded ransoms well beyond the financial means of the victims or made no ransom demand, then killed the victim, suggesting that some or all were killed at least partially for political reasons, according to ranchers' groups.

On August 27, human rights worker Joe Luis Castillo was killed while driving with his wife and child near their home in Machiques, Zulia State. Two assailants on a motorcycle opened fire on the family; Castillo was hit with 11 bullets in his torso and head. Castillo worked for the U.N. High Commissioner for Refugees (UNHCR) and dealt primarily with Colombians who had fled to Venezuela and indigenous groups. An investigation was under way at year's end.

The Government rarely prosecuted perpetrators of extrajudicial killings and characterized such incidents as "confrontations" (in which use of deadly force is legally justified), even when eyewitness testimony and evidence strongly indicated otherwise. "Death squads" comprised mostly of police reportedly killed hundreds of people during the year in the states of Anzoategui, Aragua, Bolivar, Carabobo, Falcon, Lara, Miranda, Portuguesa, Tachira, Yaracuy, and Zulia. From January to August, 854 cases were registered, according to news reports. 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 were rarely imprisoned.

The Public Ministry's Directorate for the Protection of Fundamental Rights is responsible for investigating alleged abuses by officials, including the police. The Chief



Prosecutor reported that death squads or police forces killed 1,541 people in 10 states since the end of 1999. In June, Attorney General Isaias Rodriguez instructed the Directorate to expedite death squad case investigations and prosecutions. Rodriguez also met with Portuguesa state officials to formulate a response to the state's death squad activity and conducted surprise inspections in Zulia. Although the number of death squad cases nationwide grew exponentially since 2002, official state responses remained mixed. For example, as of June, Portuguesa had indicted 15 police officers in the deaths of 95 individuals, while Falcon state officials denied the existence of local death squads. The human rights organization Committee for the Families of Victims of 1989 (COFAVIC) documented death squad activity in 11 states, including Falcon. In almost all cases, the victims were young, poor, and had criminal records. According to COFAVIC, death squads commonly demanded money from the victims, and when they were not able to pay, they were killed; such killings were not political. COFAVIC attributed the proliferation of extrajudicial killings to the lack of autonomous public institutions, resources to combat crime by legal means, and government will to root out corruption.

The Anzoategui State Human Rights Ombudsman registered 300 extrajudicial killings from 2000 through May in that state. Of those, 70 percent were attributed to Anzoategui state police and the remaining 30 percent to municipal police, CICPC, and National Guard members. In many of these cases, a family member was targeted for another individual's alleged violation.

There were some killings of demonstrators. On May 1, Ricardo Herrera was shot while participating in an opposition rally. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march. Both men were killed by unidentified gunmen. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating against job losses in the petroleum sector (see Section 2.b.).

There were no developments reported in the April 2002 case of 15-year-old Jose Gregorio Lopez, who was killed without provocation while riding his bicycle by municipal police forces.

There were no further developments reported in the September 2002 case of 22-year-old Adolfo Arcia and 19-year-old Elvis Montesinos who were killed by the Libertador municipality police force.

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.).

On April 3, an Aragua State court ordered the release of army Lieutenant Alessandro Sicat. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial. As of November, Sicat had not been detained. Sicat 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 Sicat; however, the Attorney General appealed, and in October 2001, the Supreme Court granted a civilian court jurisdiction.

In October, there was one attempted mob lynching in Caracas of an accused rapist. The Metropolitan Police intervened and prevented the lynching. A significant portion of the population tacitly supported "vigilante" death squad actions as the only viable means to control crime.

*b. Disappearance.*—The Constitution prohibits forced disappearance and 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.

From January through August, 68 ranchers were kidnapped, according to the National Cattle Ranchers Federation (Fedenaga). Although rancher kidnappings by Colombian terrorist organizations have been a growing problem in the border states for decades, Fedenaga blamed most of the increase on common criminals and the Bolivarian Liberation Forces (FBL), a relatively new organization allegedly comprised of militant supporters of the President. The Government denied any links to the FBL. According to Fedenaga, organized and professional kidnappings by Colombian groups were being replaced by disorganized, and more dangerous, kidnappings from homegrown criminal gangs and the FBL. They believed the FBL targets ranchers as much for political reasons as economic considerations, demanded untenable ransoms, and was more likely to kill prisoners. Government officials downplayed the importance of the FBL, some even denying the group's existence.

More than half of rancher kidnappings tracked by Fedenaga since 1963 occurred during the past 5 years. There were 116 rancher kidnappings during the year and 103 in 2002. Some kidnappings during the year may have been politically motivated. According to Fedenaga, 22 victims remained captive at year's end.

In an attempt to curtail border lawlessness, the Government announced the movement of 2,700 additional troops to border states. Government officials argued that few resources, increased crime, and the difficulty of differentiating combatants from civilians have hampered their efforts. During the year, the Government discontinued providing National Guard troops to protect threatened ranchers, citing limited resources.

On August 22, the CICPC and the Colombian Police (DAS) freed Christian Democrat (COPEI) leader and former Tachira State Governor Sergio Omar Calderon, who was kidnapped from his Tachira farm on July 25. In a press conference after his release, Calderon stated that he doubted that his kidnappers had acted for political reasons, explaining that they believed that his television appearances indicated that he must be wealthy. The rescuers killed Calderon's five kidnappers during the rescue operation, and their identity remained under investigation.

In September 2002, 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. In February 2002, the Vargas state penal court dismissed charges against the two men because witnesses could not identify them. At year's end, the case was before the Inter-American Commission on Human Rights (IACHR).

*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; 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 were also incidents in which the security forces used near-suffocation and other forms of torture that left no telltale signs. Most victims were poor (see Section 1.a.).

PROVEA documented 137 cases of torture, beatings, and other abuse from October 2002 through September (affecting 567 victims), compared with 324 cases from October 2001 through September 2002 (affecting 1,064 victims). The human rights organization Support Network for Justice and Peace (Red de Apoyo) received 16 complaints from alleged torture victims during the period from January to May.

The Government did not ensure independent investigation of complaints of torture. COFAVIC questioned the Attorney General's ability to oversee neutral investigations, because he is an active member of the President's political party and served as Vice President. Human rights groups asserted that the Institute of Forensic Medicine, part of the CICPC, was unlikely to be impartial in the examinations of cases that involved torture by CICPC members. Red de Apoyo claimed that the CICPC was the security force most often implicated in accusations of torture. Very few cases of torture resulted in convictions.

In December, a group of military officers and defense attorneys accused Prosecutor Danilo Anderson and other Public Ministry prosecutors of complicity in torturing prisoners. The evidence they presented included statements from two imprisoned National Guard officers.

In January, the DISIP arrested 24-year-old law student Jesus Soriano during a march at Central University of Venezuela. During his incarceration, Soriano claimed that he was placed in a cell with convicted murderer Joao De Gouveia, tortured, and denied medical attention. Two days later, he was released and was admitted to a hospital. The DISIP claimed he was beaten during the march, was a known criminal, and denied all of Soriano's charges.

Four bombings by unknown perpetrators occurred in Caracas from February to July: At the Spanish and Colombian diplomatic missions, at the Caracas Teleport Building, and at a PDVSA office building. FBL leaflets were found nearby after the bombing of the Colombian Consulate. The bombings, which resulted in minor injuries but extensive property damage, were still under investigation at year's end. During the same time period, a fifth bomb exploded in the town of Los Teques southwest of Caracas, for which the FBL claimed responsibility. No one was injured. On August 27, a fragmentary grenade exploded in front of the home of Juan Barreto, a National Assembly deputy and member of the MVR. Two neighbors were injured in that attack. On December 9, a fragmentary grenade exploded inside the Social Welfare Institute for Education Ministry Personnel building in Caracas. Three employees were injured.

Prison conditions were harsh due to scarce resources, poorly trained and corrupt prison staff, and violence by guards and inmates. The prison population was at 117 percent of capacity with 22 of the country's 30 prisons overpopulated, some severely, according to the Ministry of the Interior and Justice (MIJ). Severe overcrowding in some prisons constituted inhuman and degrading treatment. According to the MIJ, 48 percent of all prisoners were in pretrial detention. Underfunding resulted in the

lack of 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. In August, 25 prisoners escaped from the Yare I and II prisons in Valles del Tuy southeast of Caracas. The directors of both prisons were replaced, and officials opened an investigation into the possible complicity of guards. According to the MIJ, there were 340 deaths and 1,419 injuries from violence in jails from October 2002 through August. A Window to Freedom, a prison monitoring NGO, recorded approximately the same rate of deaths for the January-November period (300), but more injuries from violence (2,500). 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.

On November 10, seven inmates were killed at the Vista Hermosa prison in Ciudad Bolívar. In addition, 6 inmates disappeared and 50 were injured. Official statements indicated that the violence was gang-related, but media reports claimed that the National Guard and prison guards were responsible for the massacre. Authorities were continuing to investigate the incident at year's end.

In May, inmates of La Planta Prison in Caracas became ill with what the Government claimed was salmonella. Two weeks later, 548 prisoners had become ill and 4 had died. Prison officials confirmed privately that the outbreak was caused by dead rats in the prison's water supply. The Government claimed that the outbreak was the result of contaminated food.

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 got 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 were 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.).

On March 7, hundreds of prisoners in the Barcelona Prison took more than 300 visitors hostage to demand more food, medical attention, and COPP benefits, such as permission to work outside the prison and access to the early release program. The standoff ended on March 19 with the release of all hostages. No one was injured, and 52 prisoners won access to various COPP benefit programs.

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 objections 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, internal criticism was not well tolerated (see Section 2.a.).

*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.

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 counter narcotics operations, monitoring borders, and providing law enforcement in remote areas. The Interior and Justice Ministry controls the CICPC, which conducts most criminal investigations, and the DISIP, which collects intelligence and is 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 is headed by a career police officer, rather than a military officer. The Government intervened in the administration of the Metropolitan Police in November 2002, alleging that the police force was repressing pro-government protests. Following a Supreme Court decision on October 7, the Government returned control to the local authorities approximately 2 weeks later.

The COPP states 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. Detainees have the right to a judicial determination of the legality of their detention within 3 days, but there is no law to implement the constitutional protections. 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 that crime, nor may it exceed 2 years. Under the COPP, persons accused of petty crimes who have 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 pass a psychiatric examination. However, confusion over implementation of the COPP still existed, and arbitrary arrests continued to be common. In 2001, the National Assembly broadened the definition of the "in flagrante" 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. Human rights groups claimed this change led to an increase in detentions.

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 19,466 prisoners at the end of 2002, 49 percent of which had not been convicted of a crime and were held without bail. Prisoners had reasonably good access to counsel and family members.

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 poor sections of major cities. PROVEA documented 3,627 persons detained in sweeps from October 2002 through September, compared with 4,549 persons similarly detained from October 2001 through September 2002.

On October 5, 16-year-old Deivy Jaspe Gutierrez was arrested for offering resistance to police after he and three others were ordered to exit their vehicle, which was halted arbitrarily. Jaspe recognized one of the police officers as the alleged killer of his brother Carlos Manuel Pico Gutierrez (see Section 1.a.). At the police station, he was hit several times and then released.

On November 8, municipal police in Puerto La Cruz, Anzoategui State, detained six young men who were banging pots and pans in protest against the President, who had just arrived with his entourage. According to media reports, police accused the men of throwing rocks at the President and of trying to kill him. The men claimed they were beaten and robbed during their 5-day detention. On November 12, the judge hearing the case released the men, citing insufficient and unfounded evidence against them.

In December 2002, the DISIP detained National Guard General Carlos Alfonso Martinez while participating in an anti-Government demonstration and placed him under house arrest. On February 28, the Attorney General charged him with rebellion, desertion, and violating national security zones before the Supreme Court. In September, Martinez was transferred to the Military Detention Facility in Los Teques, Miranda State; he had been under house arrest for approximately 8 months. The Supreme Court and the Inter-American Human Rights Court ruled that he should be released, but the Government had not responded at year's end.

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 reportedly were detained and deported without due process (see Section 2.d.).

Forced exile is illegal.

*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.

From January 2001 to March, panels of legal experts selected judges in competitive examinations. On March 12, the Supreme Court suspended the competitive process without explanation, and announced that the Judicial Commission, composed of Supreme Court justices, would select judges. By statute, the Supreme Court can suspend the competition only when it suspects irregularities in the process. The inability to establish a transparent and efficient selection process has led to a shortage of permanent (titled) judges, who make up less than 30 percent of all working judges. According to the DEM, corruption was widespread among the provisional and temporary judges who represented over 70 percent of working magistrates.

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 DISIP and the CICPC, files complaints in criminal courts, and oversees the prisons; and the Executive Directorate of the Magistracy (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. The COPP also introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. Defendants and complainants have the right of appeal. The adversarial system establishes the right to plead guilty without trial and make reparation agreements; however, lengthy delays in trials remained common.

A November 2001 amendment to the 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, as of September there were 619 public defense attorneys for the entire country, of which 188 were dedicated exclusively to juvenile cases and 431 for all other cases. In 2002, 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.).

On July 21, the Supreme Court declared a 60-day state of emergency in the DEM, placed it under the supervision of Justice Yolanda Jaimes Guerrero, and opened an investigation into alleged mismanagement by former DEM coordinators. The investigation continued at year's end.

On October 23, the Supreme Court ordered the replacement of the First Court for contentious administrative matters with two new courts for contentious administrative matters. On November 3 and 4, three of the First Court's five judges were dismissed, and the Supreme Court announced that they would not be appointed to either new court. The dismantled First Court heard cases involving alleged illegal government actions. The three dismissed judges formed a majority that issued several rulings contrary to key Government interests since December 2002. Domestic and international law groups criticized the actions against the First Court and the three judges as interference with the independence of the judiciary. At year's end, creation of the new courts and selection of judges were still in process.

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.

On April 3, an Aragua state court ordered the release of army Lieutenant Alessandro Sicat who had been charged with a human rights violation. The Government appealed the decision, and on August 21, an appeals court reversed the state court ruling and ordered Sicat's immediate detention until the convening of a new trial (see Section 1.a.).

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.

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 poor neighborhoods. Reports of illegal wiretapping and invasion of privacy by the security forces increased during the year; many of these activities targeted members of the media (see Section 2.a.). In October and November, the Government released recordings of conversations it alleged occurred among opposition leaders. The Government did not acknowledge how it obtained the recordings.

On August 12, DISIP agents accompanied by a prosecutor with a search warrant entered the offices of an opposition political party ostensibly to search for counterfeiting equipment (none was found). Party members present claimed that the raid's actual purpose was to create a political distraction and possibly to plant listening devices. There were also reports that DISIP listened to phone conversations of witnesses to extrajudicial killings in Falcon State. Throughout the country, witnesses to abuses by security forces reported instances in which their family members later were harassed, threatened, or killed (see Section 1.a.).

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; although the Government generally respected these rights in practice, press freedom deteriorated during the year with efforts by some persons associated with the Government to provoke, threaten, or physically harm or encourage others to attack private media owners, their installations, and journalists working for them. Physical violence against the media declined during the year in comparison to 2002. Government pressure against the media—tax investigations, technical inspections and seizures, and verbal condemnation—increased, as did legislative efforts to limit private media's ability to exercise freedom of expression. During the year, both sides also continued accusing one another of broadcasting subliminal messages to incite violence against the other group.

There were reprisals against individuals who publicly criticized the Government. In April, the general coordinator of the prison monitoring NGO A Window to Freedom, was fired from his teaching position at the National University Institute of Penitentiary Studies after commenting on the country's poor prison conditions to a foreign journalist (see Section 1.c.). In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the petition for a referendum on the Presidency (see Section 3).

Print and electronic media were independent, although many felt threatened by the Government and its sympathizers. There were at least 77 newspapers; 89 magazines and weekly journals; 344 mainstream and over 150 community FM and AM radio stations; and 31 television channels, 23 of which are outside the metropolitan Caracas area. These community radio and television stations are distinct from mainstream commercial media in legal status, frequency licensing requirements, and advertising regulations. Most community media were new and were pro-government in editorial policy.

The Government-owned a national television station, Venezolana de Television (VTV); a metropolitan Caracas television station, TV Venezuela; a national radio network, Radio Nacional; and a newswire service, VenPres, whose directors are named by the President. The President had a weekly show on state television, radio, and the Internet. Independent media observers criticized the state media for extreme pro-government politicization. During the year, state media employees continued to complain about purges of employees considered to be anti-Chavez, and some employees of Radio Nacional and VTV claimed they lost their jobs because of their political views.

Individuals and the media freely and publicly criticized the Government; however, as noted by the IACHR Special Rapporteur on Press Freedom, reprisals and threats of violence against journalists and media organizations restricted freedom of expression in practice. President Chavez repeatedly singled out media owners and editors and charged that the media provoked political unrest. The statements resulted in a precarious situation for journalists, who were often attacked and harassed.

According to media sources and published reports, at least 1 reporter was shot and approximately 70 physically attacked with weapons such as clubs, knives, rocks, and battery acid while covering street demonstrations and political rallies. In 2002, 7 reporters were shot and more than 80 were physically attacked. During the year, approximately 50 reported having received threats, in some instances telephoned death threats; there were 100 such reports in 2002. According to the NGO Reporters Without Borders, the Government committed 93 "aggressions against journalists" during the year. At least six attacks involved the use of bombs or other explosive devices. There were over 60 attacks on installations or media property.

In his annual message to the National Assembly in January, the President declared the "year of the war against the media." International organizations and domestic journalists charged the Government with encouraging a climate of hostility toward the media that jeopardized freedom of the press.

In May, Human Rights Watch (HRW) issued a report regarding threats to freedom of expression, estimating that at least 130 assaults and threats of physical harm to journalists and press property occurred during January 2002 and through

February, mostly committed by pro-Chavez civilians. The report also criticized the government investigations into four private television stations and the proposed Law of Social Responsibility in Radio and Television (Broadcast Media Content Law). The Vice President rejected the HRW argument as a biased intrusion in domestic affairs. Under the bill, which was pending its second reading in the Assembly, broadcasters must release "truthful information." Additionally, television companies, advertisers, and broadcasters could be punished for transmitting "contents that promote, defend, or incite lack of respect of legitimate authorities." Programs containing violence of any kind, including coverage of disasters, political conflicts, and criminal incidents, would be restricted to the hours of 11:00 p.m. to 5:00 a.m. The bill would require disclosure of sources of information and would assign to the National Telecommunications Commission (CONATEL) the task of determining whether broadcast contents meet regulations. Heavy fines would be imposed on violators. On October 23, the official news service, VenPres, published comments by the HRW Executive Director that appeared to support the proposed broadcast media law. HRW immediately issued a statement that VenPres had taken the comments out of context and used them in a misleading way.

Both government and private media were highly politicized. HRW criticized private media for their pro-opposition bias. The Government asserted that some of the private media owners participated in the failed 2002 coup attempt, and claimed that some media were continuing to plot anti-constitutional measures. Most media owners state that they feared the Government planned to curtail basic liberties. Many journalists expressed dismay over the hostility and lack of communication between the groups. There were credible reports of state security agents spying on, harassing, intimidating, and physically attacking journalists. There were numerous cases of wiretaps of journalists, media owners, and media telephones, apparently without legal authorization (see Section 1.f.).

In August, the Cuban Government distributed a video titled "The Vulgar Fallacies of El Universal of Caracas," in an apparent attempt to discredit El Universal's investigation of the alleged diversion of government funds to assist the Cuban regime. Cuban television also broadcast the video. Government media accused private media of defaming and slandering government leaders and attempting to overthrow the Government.

Violent or threatening pro-government demonstrations occurred at several media offices. In August, two men on a motorcycle threw an explosive device into Regional Tachira radio station's parking lot and left flyers saying, "We will eliminate media terrorism." Also in August, El Mundo reported that National Guardsmen had stopped its delivery truck in Barquisimeto and accused the paper of being anti-Chavez; only after paying a small "fine" was the truck allowed to proceed. At year's end, none of these cases had been resolved.

In August, VTV announced a march on RCTV, which was followed by a group of Chavez sympathizers who spray-painted threats to the channel's vice president on the station's front wall: "Marcel G en la mira militar" (Marcel G in the crosshairs of the military), a reference to the station's owner.

Although the bulk of attacks were directed against private media journalists and installations, there were also actions against journalists and installations affiliated with the Government. In June, Catia TV, a government-sponsored community television station closed temporarily by order of opposition Mayor Alfredo Pena with jurisdiction over Catia. Several days later, the mayor's office re-opened the station, apologized for the closure, and noted that it did not have the authority to intervene in the operations of the media.

In November 2002, the Inter-American Human Rights Court applied "provisional actions" to the Government, the next step after the Court's "precautionary actions," for the Government's failure to protect individual rights, safety, and freedom of expression. The provisional actions ordered the Government to investigate and punish those responsible for aggressive acts and to publicly condemn violence against the media. At year's end, the Government had not responded to the Court's provisional actions.

In December 2002, the OAS Permanent Council's Resolution 833 called on the Government to ensure full freedom of expression, based on the OAS Democratic Charter. During the year, the IACHR Special Rapporteur for Freedom of Expression criticized the administrative proceedings against private television channels and radio communications regulations that forbid transmission of false or misleading information; condemned an attack against columnist and talk show host Marta Colomina; and criticized the July 15 Supreme Court decision to uphold laws making it a crime to insult, injure, or threaten public officials. At year's end, the Government had not successfully investigated any of more than 80 assaults on and threats

against journalists and at least 40 reported attacks on media installations and equipment during the year.

Since late 2002, the Ministry of the Interior and Infrastructure opened a number of administrative cases against Globovision, RCTV, Venevision, and Televen. The following cases were unresolved: Globovision had three pending cases for alleged misuse of content (including subversion of public order and the slander and libel of government officials and institutions; RCTV had seven court cases based on the Organic Law for the Protection of Children and Adolescents (for inappropriate programming); Venevision had one administrative case for alleged violation of the national broadcasting regulations, which prohibits the transmission of messages that incite rebellion and disrespect for institutions and officials, as well as the broadcasting of propaganda that subverts public order and the transmission of false or misleading news. CONATEL also submitted charges based on its allegations that Venevision was delinquent on its tax payments. Venevision appealed the case; Televen had one administrative case for broadcasting opposition civil and military leaders' statements and propaganda between October 2002 and January, as well as for televising opposition ads between 3:00 p.m. and 6:00 p.m. (hours reserved for children's programming).

On October 3, CONATEL filed administrative charges against Globovision and seized microwave equipment alleging the station had used it to broadcast on illegal frequencies. The seizure limited the 24-hour news station's ability to cover live events. The IACHR issued two precautionary measures in favor of Globovision in October calling on the Government to return the equipment and to ensure a speedy resolution of the case by impartial and independent Venezuelan judges. On October 3, Globovision filed an appeal with the First Court for Contentious Administrative Matters. On October 8, the First Court voted in favor of Globovision and ordered the return of the equipment while CONATEL determined the outcome of the case. The same day, the Supreme Court closed the First Court and suspended the judges who had ruled in favor of Globovision; their ruling was never released. At the request of the Attorney General, the Second Court of Appeals of the Penal Judicial Circumscription ruled that the Court's protective measures previously issued for certain journalists be extended to all journalists, technicians, representatives, directors, and employees of five private television stations: Globovision, RCTV, Venevision, Televen, and CMT. The ruling noted consequences the Government might face if it failed to comply with international obligations, including the IACHR's protective measures. The ruling also ordered local and Miranda State authorities to guarantee the safety of personnel and protection of assets of private TV stations, including microwave and other broadcast equipment. On December 9, CONATEL fined Globovision approximately \$364,000 (582,000,000 bolivars) for illegal use of frequencies and announced that it would not return the microwave equipment it seized from the television station on October 3.

The Constitution states that all persons have the right to "timely, true, and impartial" information, without censorship. 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.

According to the Constitution, it is "contrary to the freedom of information" for a medium to criticize ideas, rulings, etc., without indicating what is being criticized. A 2001 Supreme Court ruling established criteria to determine whether a media report is "true" or not. Violations included expressing opinions that contain statements that were "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 affirmed that information could 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 Supreme Court also ruled that the true information clause would be violated if a majority of a medium's editorial writers express the same ideological tendency, unless that medium openly declares itself to be a party to those views. In May 2002, the Supreme Court ruling was taken to the IACHR to be submitted to the Inter-American Court of Human Rights. At year's end, there was no decision on the case.

According to the 2000 Organic Telecommunications Law, the Government may order obligatory national broadcasts (cadenas), pre-empting scheduled programming. Domestic and international observers criticized the Government for excessive abuse of this right. As of August, the Government increased the frequency and length of cadenas. According to private media sources, there were approximately 162 hours of cadenas during the year, compared with 73 hours in 2002.



The Government influenced the press through licensing requirements for journalists, broadcast licensing concessions, and public sector advertising. Some commercial radio stations complained that the allocation of frequencies to community stations violated broadcast regulations, according to the National Venezuelan Radio Broadcasting Chamber. Funding for the stations reportedly came from the Government, not the communities, and the broadcasts were pro-government.

The Government denied equal access of private media journalists to many official events. Beginning in December 2002, the presidential palace denied access to reporters from private media, while state controlled media and some foreign news reporters continued to have access.

Media analysts, journalists, and other observers alleged that the Government used criminal defamation and libel laws 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 attempts to discourage investigative journalism. The editor of La Razon newspaper remained overseas because of one such long-running lawsuit. Other media owners and executives sent their families abroad fearing they could be attacked or kidnapped if they were to remain in the country.

In July, army Colonel Angel Bellorin and MVR Deputy Luis Tascon sued journalist Ibeysa Pacheco for defamation of character. Pacheco printed accusations that Bellorin had altered the grades he received while a university student and published a photo linking Tascon to the events of April 11, 2002. The case was pending at year's end.

On December 23, the DIM ordered that a book written by Luis Pineda Castellano, former chief of security for President Chavez, be removed from sales shelves at the National Armed Forces library. Castellano's book included accounts of his 29 years in DISIP, citing stories of the President's responsibility for concealing irregularities.

The Telecommunications Law permits the President to suspend media broadcasts when he judges it to be in the national interest. Some observers believed this law could allow the suspension of broadcasts for vague and arbitrary reasons. During the year, the President referred to this law many times and threatened to revoke commercial broadcast licenses or not convert pre-2000 licenses to new ones. Many media professionals complained that investigations of television and radio stations by CONATEL were politically motivated.

There were at least 15 government administrative interventions in private media during the year, and the President publicly accused media owners and institutions of tax evasion. Media figures charged that the Government used ongoing tax investigations to pressure media owners. The CONATEL web page highlighted its fining of Globovision for the station's alleged delay in tax payments. The fines totaled over \$310,000 (496 million bolivars); Globovision asserted it had paid all required taxes.

The Government did not restrict access to the Internet.

While academic freedom traditionally was generally respected, government funding was withheld from the country's universities. Rectors of those institutions charge that the Government did so to punish them. All of the major public university rectors were elected on anti-government platforms. In July, the Government established the Bolivarian University while withholding budgeted funds to many of the existing universities. Public institutions of higher education designated as "experimental universities" are governed by Superior Councils, to which the Government appoints 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 freedom 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, although numerous marches and rallies were disrupted by alleged government supporters. The Government required permits for public marches but did not deny them for political reasons.

The Constitution prohibits the use of firearms to control peaceful demonstrations. Supporters and opponents of the Government repeatedly demonstrated in 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.

The opposition held several rallies in neighborhoods considered pro-government strongholds, leading to government accusations that the rallies were intended to provoke supporters of the President. Opposition organizers claimed their intention was to reveal the opposition's high level of support among the poor. The Government did not stop the rallies from taking place.

On March 8, an opposition march turned violent after DISIP was unable to capture Juan Fernandez, the president of Petroleum People, the civil society organiza-

tion and support group for fired PDVSA workers. Protesters attacked DISIP vehicles and officers, who withdrew using tear gas.

In April, four men who were identified shooting at demonstrators from Llaguno Bridge in downtown Caracas, and arrested after the temporary alteration of constitutional order in April 2002, were released after an appeals court ruled there was insufficient evidence to hold them. Both opposition and government supporters claimed case evidence had been manipulated to favor the other side. On September 17, a judge cleared the four of all charges against them, citing lack of evidence. The prosecutor appealed the decision, but at year's end the case had not been concluded.

On May 1, Ricardo Herrera was shot while participating in an opposition rally in Caracas. Police claimed to have a suspect in custody. On May 24, Modesto Martinez, described in news reports as an MVR militant and activist, was killed during an opposition march in the Catia neighborhood of Caracas. No one was charged with his death. On July 17, Juan Carlos Osorio was killed by a National Guardsman while demonstrating in Anzoategui State against job losses in the petroleum sector (see Section 1.a.).

The Government alleged that the Caracas Metropolitan Police used excessive force during various demonstrations; however, no charges were brought against officers. On June 13, the Metropolitan Police used tear gas and shotguns to disperse government supporters who were threatening an opposition rally in the Petare district of Caracas. Police reported that pro-government demonstrators targeted them with firebombs, and violence broke out. The pro-government protesters destroyed the police post.

In September 2002, the Government 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 and continued in force throughout the year. Opposition groups criticized these security zones as a restriction on the right of assembly. In August, the Minister of the Interior complained that opposition groups planning a rally in support of the recall of the President had not coordinated security for the event with the proper authorities. The Minister cited concern that the march routes published in newspapers indicated they would be going through some security zones; however, the Government did not impede the marches or the rally.

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 citizens in court or bring their own legal actions; and that religious organizations are not part of civil society and were subject to the same restrictions. The ruling stated that 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 CNE. The Government had not moved to implement the Court's decision.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, on the condition that the practice of a religion does 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. Other religious groups receive monetary assistance for the repair of building for religious use; however, the amount available to non-Catholic groups was less than 7 percent of the annual religious subsidy budget. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government, except in the form of building repairs.

Religious groups 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 are 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. Missionaries were not refused entry generally, but faced the general bureaucratic inefficiency of the Government taking months or years to process a request.

In May, Archbishop Baltazar Porras, chairman of the Venezuelan Bishops' Conference, accused the Government of seeking to destroy the Catholic Church's credibility by manufacturing scandals aimed at priests and bishops. He described a series of attacks on churches, cathedrals, and priests' houses whose apparent aim was to create fear, rather than steal objects of value. Prior to at least one attack, normal police presence had been withdrawn after authorities allegedly claimed it was a privilege the Catholic Church should not enjoy.

On September 21, during his weekly national broadcast, the President referred to the Bishops' Conference as "liars" and "immoral" for allegedly using church services to distribute leaflets and other messages in support of the opposition.

In December, there were five attacks on churches and church symbols. On December 6, pro-government groups marching to a presidential rally in Caracas decapitated a statue of the Virgin Mary in Altamira Plaza, a site associated with the opposition. On December 9 and 16, unknown arsonists set a church on fire in Los Teques, Miranda State, damaging an outside wall and destroying two shrines. On December 10 and 12, statues of the Virgin Mary and other religious images were destroyed in Cardon, Falcon State. The Catholic Church accused the Government of organizing the attacks. Government officials denied responsibility and blamed dissident military officers, infiltrators, and opposition supporters. Authorities had four suspects in custody for the Falcon State attacks, and at year's end, investigations of all the attacks continued.

For a more detailed discussion, see the 2003 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 persons who are departing the country with minors that are not their children to present to immigration officials proof of authorization from the minors' parents.

Both the Constitution and the Organic Refugee Law that took effect in October 2001 provide for the granting of refugees status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement, but did not routinely grant refugee or asylum status.

Implementing regulations for the Refugee Law have not been drafted; the new National Refugee Commission was sworn in on August 7. The Commission will receive and decide applications for refugee status. At year's end, there was still no formal mechanism for those seeking asylum to legalize their 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 cases once it can begin doing so.

Persons who applied formally for refugee status received 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. In July 2002, PROVEA requested a ruling from the Supreme Court that would give temporary legal status to refugees. Nearly a year later, the Court requested additional information from PROVEA and the Government but did not issue a ruling. 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.

As of August, there were approximately 200 persons in the country who had been granted refugee status from prior years, and approximately 1,500 additional refugee claims pending.

In theory, the Government provides temporary protection; however, the Government denied the existence of all but a small number of Colombian refugees who crossed the border and claimed to be fleeing paramilitary incursions. It called those Colombians whose presence it did acknowledge, "displaced persons in transit." 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.

On December 22, authorities denied Juan Fernandez permission to travel out of the country. Fernandez, the head of Petroleum People, faced pending charges of sabotage and treason for his alleged role in the national work stoppage (see Sections 2.b. and 6.b.).

There were no reports of forced return of persons to a country where they feared persecution. In 2002, the latest year for which numbers were available, 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 August 2002, they deported 9,533 persons. Although the law requires the authorities to take 30 days to investigate each undocumented person's 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. The Constitution also permits citizens to request recall referenda after the mid-point of the term of all elected officials. Political parties organize, and their candidates are allowed to run for office freely 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 Branch consisting of the Ombudsman, Public Prosecutor, and Controller General.

Opposition groups and political parties have sought to remove President Chavez from power since 2002. In April 2002, military officers with the support of some opposition groups illegally detained Chavez, and opposition business leader Pedro Carmona, without any constitutional authority, proclaimed himself interim president and suspended the National Assembly and the courts. On April 14, 2002, troops loyal to Chavez returned him to power. During the accompanying violence, there were as many as 18 deaths and more than 100 injuries, as well as looting. An investigation into the April violence, plagued by irregularities, failed to result in any convictions.

In February, opposition groups collected approximately 3 million signatures from citizens to petition a referendum to recall the President. On August 20, the petitions were submitted, but the Supreme Court ruled they were invalid since they had been collected before the President had completed half of his term of office. On May 29, government and opposition representatives signed an agreement, after months of negotiation under OAS auspices, that acknowledged respect for the Constitution and its provisions that give citizens the right to hold a recall referendum for any elected official, including the President. Meanwhile, the National Assembly failed to agree on the membership of a new CNE and on August 14 was found to be in "constitutional omission" by the Supreme Court for this failure. In September, the Court named the CNE, which then rejected the opposition's petition based on the February signatures. Using rules formulated in September, the opposition then conducted another signature drive at the end of November. The Government and opposition also collected signatures to petition for referenda to recall more than 70 legislators. The CNE was expected to verify the signatures collected at both events by January 2004.

On August 14, a judge ruled against the Human Rights Ombudsman for converting 79 types of career civil service jobs into political appointments. Career employees who had lost their jobs as a result claimed that the process was used to remove those who were not pro-government. In September, there were news reports of individuals fired from private sector jobs, of students denied internships, and of military officers disciplined or discharged because they signed the February petitions for a referendum.

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 2000 elections, women won 20 seats in the 165-seat Assembly. There are 2 women in the 18-member Cabinet. In the Citizen Power Branch, a woman holds the position of Solicitor General. The 20-member Supreme Court includes 2 female justices.

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 2000 election. There were no indigenous members in the Cabinet. One of the vice presidents of the National Assembly is 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 2000 Supreme Court ruling that imposed restrictions on NGOs that receive funding from foreign governments should they be found to be "undemocratic in nature" (see Section 2.b.). This ruling has not impeded the work of NGOs.

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 tribunals), and the National Assembly (to discuss proposed legislation affecting human rights).

Several human rights NGOs received an increased number of threats and intimidation by government representatives and government supporters. Throughout the year, COFAVIC received e-mail and telephone threats from 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 2002, the IACHR recommended that the Government provide police protection to COFAVIC's offices and director. 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. On December 2, the IACHR issued a report stating that the Government had not effectively implemented its recommendations. In addition, the IACHR reported that attacks on COFAVIC's director and other officials were directly linked to the NGO's defense of human rights.

In August, the IACHR ordered the Government to pay \$1,559,800 (2,495,680,000 bolivars) to compensate relatives of the victims of the Caracazo riots and killings of 1989, the events that prompted formation of COFAVIC. In 2002, the IACHR had called for the Government to prosecute those responsible for the Caracazo and to compensate the victims' families within 1 year.

On October 8, the President declared that the Government was not obligated to comply with decisions of the IACHR. He also stated that compliance with the IACHR order to return confiscated broadcasting equipment to the media outlet Globovision would uphold criminality.

The Ombudsman is responsible for ensuring that citizens' rights are protected in a conflict with the state and, together with the Public Prosecutor and Controller General, make up the Citizen Power branch of government. Human rights NGOs claimed that the Ombudsman's office acted on only a small number of cases presented to it. COFAVIC claimed that the Ombudsman and the Attorney General's Office were not independent of the Executive Branch and were therefore unable to carry out effective investigations.

On August 27, Joe Luis Castillo, an employee of the UNHCR, was assassinated in Machiques, Zulia State. Many human rights organizations and the IACHR called on the Government to investigate the killing and to do more to protect human rights workers. Rumors circulated that Castillo, in his professional role, may have aided a member of a paramilitary group, garnering the anger of rival groups. Ombudsman German Mundarain asked and Attorney General Isaias Rodriguez agreed to assign a special prosecutor to the case. At year's end, no suspects had been identified or charged.

On July 1, HRW criticized the Government's proposed law to regulate broadcast media and its ongoing investigations of four private television stations as detrimental to the exercise of free speech. The Government responded with a personal attack on the HRW Executive Director but did not address the substance of HRW's concerns (see Section 2.a.).

On June 11, Freddy Gutierrez was elected to the IACHR. Previously, the Government had few dealings with the Commission, causing concern among human rights groups about the Chavez administration's lack of a human rights agenda. Some human rights groups saw Gutierrez' presence on the Commission as the Government's attempt to reduce or deflect criticism from the Commission, rather than as genuine concern for human rights.

The Defense Ministry's human rights office continued to conduct courses as part of the armed forces' training curriculum.

#### *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 persons with disabilities access to jobs and public services, nor did it safeguard adequately the rights of indigenous people during the year. On June 29, several hundred participants demonstrated against discrimination toward homosexuals and to demand equal rights for them.

*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 common and was aggravated by the country's economic difficulties. The Venezuelan Association for Alternative Sexual Education (AVESA) registered 40 cases of domestic violence. At

year's end, AVESA was working to compile domestic violence statistics from other NGOs and governmental entities to reflect more accurately the extent of the problem. Many domestic violence cases were not reported to the police, according to women's organizations. The police generally were unwilling to intervene to prevent domestic violence, and the courts rarely prosecute 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 notify 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 are trained to assist rape victims. AVESA registered 330 cases of rape or attempted rape during the year; a majority of the victims were children. 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 do not report the incident or press charges due to societal pressure and their own feelings of guilt.

One human rights organization received reports that women were trafficked to Europe for purposes of prostitution (see Section 6.f.).

Sexual harassment in the workplace was a common problem but is 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. A 2000 government decision allowed women to attend military academies and serve in expanded roles as officers in the armed forces. As of August, 70 women were in training at the Army's military academy, 60 were in training at the Naval academy, 39 were at the Air Force academy, and 75 were in training at the National Guard academy.

Women and men are 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—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 2002, the Government said that \$10 million (15 billion bolivars) had been placed into this fund, and numerous micro-loans were issued during the year. There were allegations of corruption and mismanagement within the fund. In August, the bank admitted that it had negative balances, and the Central Bank of Venezuela called for it and other microfinancing institutions to be placed under greater regulatory supervision. 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 under funded. 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 general lack of resources made compliance nearly impossible. The Center for Peace and Human Rights at the Central University of Venezuela estimated that 20 percent of the poor had no identity documents, and the majority of these were children between the ages of 2 and 18.

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.

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 were inadequate and had poorly trained staff.

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 (see Section 6.d.).

According to UNICEF, there were 240,000 children on the streets; however, CECODAP reported that there were 500,000 street children. The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. 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, 119 children remained missing. With the 2002 closing of the police office responsible for investigating the missing children, the Displaced Persons Unit of CICPC began handling the cases. 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 prohibits 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 People.*—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 persons in 27 ethnic groups. Many of the indigenous were isolated from modern civilization and lacked 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 deputies 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. 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.

On May 23, the Yaruro indigenous group of Apure State complained to the human rights group PROVEA that landholders and ranchers allegedly invaded Yaruro lands with negative results for the area's natural resources on which the indigenous community depended. Equally worrisome to the Yaruro was the discovery of petroleum within their territory. The Yaruro demanded compliance with Articles 120 and 129 of the Constitution requiring that any exploitation of natural resources within an indigenous group's territory only be undertaken after consultation with the affected group.

In July 2001, three members of the Pume indigenous people in Apure State were killed during an apparent effort to take control of the land they occupied. Two adults and one child 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 2002, the Supreme Court reopened the case and ordered that the two men be detained. There were no further developments in this case during the year.

*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, the Government continued to violate the right of association. 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 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 CNE the authority to administer the internal elections of labor confederations. This article, which contravenes ILO Conventions 87 and 98, has been the subject of a long-running dispute between the Government and the ILO. However, during the year, the ILO took note of the will expressed by the Government and the National Assembly to adjust the legislation to the requirements of Convention 87, and requested the Government to furnish a detailed report, including the texts of any new draft elaborated, so that the ILO Committee of Experts could examine the situation once again at its next meeting.

The Inter-American Regional Organization of Workers and International Confederation of Free Trade Unions concluded that the Government seriously violated the right of association. 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. It also "deplored allegations of acts of violence committed with government backing [that] had been presented to the ILO mission by workers' and employers' organizations."

According to 2002 figures, approximately 10 to 12 percent of the 10-million-member national labor force was unionized. The CTV, three small union confederations, and a number of independent unions operated freely. The CTV represents 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 was affiliated with either Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally influence each other. The Bolivarian Workers Force (FBT) organized unions within the CTV and participated in the CTV internal elections held in October 2002. During the year, the head of the Caracas metro union established the pro-government National Workers Union (UNT) as a counterweight to the CTV; the UNT claimed to have 630 affiliate unions.

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 spite of the CNE's hands-off approach and a 2002 Supreme Court ruling on the matter, the Government did not accept the validity of CTV internal elections in which pro-government candidates were defeated. As a result, the Government invited the UNT to represent labor on the delegation to the annual ILO Conference in June, rather than recognize the CTV leadership as the leading labor representative for the country. On June 2, Manuel Cova, CTV Secretary General, filed a complaint with the Supreme Court against the government delegation and later formally challenged the delegation's credentials at the ILO Conference in Geneva.



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 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.

There are no restrictions on affiliation with international labor organizations, and many union organizations were active internationally; however, a 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 bargaining 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 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 over this 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, beginning with the labor confederation's leadership of a national work stoppage from December 2002 to February 1. On February 20, a criminal court ordered CTV Secretary General Carlos Ortega's detention on charges of rebellion, sabotage, and treason. On March 27, Ortega arrived in Costa Rica after being granted asylum in the Costa Rican embassy in Caracas. According to the media, Ortega said several times that he will return to the country but had not done so at year's end.

On February 19, DISIP officers detained strike leader and Fedecamaras president Carlos Fernandez and held him incommunicado until around 10:00 a.m. February 20 when he was allowed to speak with his wife via telephone. The Government announced that Fernando was being held on charges including rebellion, treason, instigation to commit a crime(s), criminal association, and "devastation." An opposition attorney stated that no warrant or court order was displayed at the time of Fernandez's capture. Human Rights Ombudsman German Mundarain acknowledged that Fernandez's detention was not "entirely transparent" because judicial officials were prohibited from seeing Fernandez immediately following his detention. Later in the year, Ortega and Fernandez submitted a complaint against President Chavez to the IACHR, alleging that Chavez breached internationally recognized human rights. On March 20, a court of appeals authorized the release from house arrest of Fernandez citing insufficient evidence. However, the judge stated that Fernandez could be re-arrested if the Public Ministry presented sufficient evidence at a later date. Fernandez had left the country at year's end.

The Constitution and the 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 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 and after the national work stoppage, PDVSA fired 19,000 mostly white-collar petroleum sector workers, saying they had abandoned their jobs for more than 3 days and were therefore terminated under the Labor Code. The Government denied the former workers continued access to company housing, schools, and medical benefits. Claiming their termination was illegal, fired employees filed suit for either reinstatement or compensation. The Government filed criminal charges against seven former oil company executives for alleged incitement to rebellion and sabotage of the oil industry. On June 10, the Supreme Court ruled that the Government's case had procedural errors and would have to be refiled.

During the year, several brief strikes occurred among government employees such as doctors and health workers in public hospitals and clinics, teachers, and transportation workers.

Labor law and practice are the same in the sole export processing zone of 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; however, there were reports of trafficking in children for employment purposes (see Sections 6.d. and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The 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 2002, 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 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 (see Section 5). The Criminal Code prohibits inducing the prostitution and corruption of minors. Persons convicted of these crimes may be sentenced to imprisonment from 3 to 18 months, and up to 4 years if the minor is younger than 12 years old.

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. Children who worked in the informal sector, mostly as street vendors, generally worked more hours than the total permitted under the law. According to a Foundation for Social Action (FUNDAS) study, 63 percent of child street vendors work 7 days a week and 69 percent began working between the ages of 2 and 3. 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. According to another report, 1.1 million children worked in the informal sector, 300,000 in the formal sector, and 206,000 in jobs related to prostitution, drugs, and theft.

*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 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. On April 30, President Chavez announced a plan to increase the minimum wage by 30 percent. The plan was designed to raise the monthly minimum wage in two increments during the year. In July, the Government raised the minimum wage for public and private employees by 10 percent. Following the increase, the monthly minimum wage was \$125 (200,000 bolivars) in the private sector for urban workers, \$120 (192,000 bolivars) for employees of small and medium-sized companies, and approximately the same for rural workers. The President decreed a 20 percent increase to take effect October 1. The increases 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 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 to be \$158 (253,000 bolivars). The figure did not include other necessities such as medical care, transportation, clothing, and housing. The Ministry of Labor enforced minimum wage rates effectively in the formal sector of the economy, but approximately 55 percent of the population worked 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, 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, although there is no implementing law specifically for prosecution of all forms of trafficking in persons; however, there were reports that the country was a source, destination and transit country for trafficked men, women, and children during the year.

Trafficking may be prosecuted under laws against forced disappearance and kidnapping (punishable by 2 to 6 years' imprisonment) and, in the case of children, under the 2000 Organic Law to Protect Children and Adolescents (which carries a fine of 1 to 10 months salary for trafficking in children). The Government did not prosecute any individuals for trafficking in persons during the year, and no figures were available from either government or NGO sources, making it difficult to gauge the extent of the problem. The authorities showed little awareness of trafficking in persons as a human rights problem. An underdeveloped legal framework, corruption among immigration authorities, and the ease with which fraudulent Venezuelan passports, identity cards, and birth certificates can be obtained created favorable conditions for trafficking. In June, the Director General of the passport agency and the General Manager of Simon Bolivar International Airport were replaced due to their alleged involvement in trafficking of Chinese nationals.

PROVEA received complaints that women were trafficked to Europe for purposes of prostitution. Undocumented or fraudulently documented Ecuadorian and Chinese nationals transited the country en route to Mexico and reportedly were forced to work off the cost of their transportation in conditions of servitude. The Ombudsman's office continued to investigate whether some of the children separated from their parents in the December 1999 flooding in Vargas state may have been trafficked. At year's end, 119 children remained missing. In 2002, there were reports that children from other South American countries, especially Ecuador, were trafficked to work in Caracas as street vendors and housemaids; there were no further reports of this during the year. 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.

Government efforts to prevent trafficking are the responsibility of the Public Prosecutor's Family Protection Directorate and the National Institutes for Women and Minors. Female victims of trafficking had 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.