

## 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 compose the Government. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976. In the March 1999 elections, the ALP retained power by winning 12 of 17 parliamentary seats, 2 more than it won in the previous elections in 1994. The Governor General appoints the 15 senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defence Force. The police are organized, trained, and supervised according to British law enforcement practices. There were reports of occasional instances of excessive use of force by the police and prison guards.

The country has a mixed economy with a strong private sector. Tourism is the most important source of foreign exchange earnings. The country is burdened by a large and growing external debt, which remains a serious economic problem. Per capita gross domestic product was about \$7,500 in 1998.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. Prison conditions are poor, and there were allegations of abuse of prison inmates. Opposition parties complained that they received limited coverage or opportunity to express their views on the government-controlled electronic media. Societal discrimination and violence against women also continued to be problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the authorities generally respected these prohibitions; however, there were allegations of abuse by prison guards.

There have been occasional reports of police brutality and threatening behavior. In August the families of two young men arrested by the police charged that police beat the young men leaving them with bruises and cuts on their arms, cursed them, and waved guns at family members in a threatening manner. Police authorities acknowledged the arrest but denied the alleged behavior by the policemen named by the families.

Prison conditions are poor. Conditions at the lone, 18th-century prison considerably worsened when a fire destroyed most of the facility in January 1999. Prisoners allegedly started the fire to protest random searches by prison guards. Following earlier prison riots and serious security breaches in 1997, the Government had decided to privatize the prison and hired a foreign security company, which replaced all prison officials, with the exception of a small administrative staff and women's prison officials, with its own employees.

Conditions at the prison have remained unsettled since the fire.

All prisoners are back in the compound, but repairs and renovations were not yet completed at year's end. In August the private firm's contract ended and was not renewed. A local management team was hired, with an acting superintendent on temporary duty from a neighboring island, and was charged with restoring order in

keeping with the June 1999 recommendations of a Royal Commission of Inquiry that investigated charges of abuse and other problems. A resident superintendent was trained to take over from the acting official, and the new team continued to train new hires and returning guards who had been discharged when the private firm ran the facility. The Commission recommended hiring more guards and using a rehabilitative approach. A psychologist was hired to oversee a newly established Rehabilitation Center, while some 30 new guard officer positions were filled to bring the staff to 94, including 16 female officers.

The prison remained overcrowded, with over 170 prisoners. In September inmates sent letters of complaint to the media, asking that the letters be forwarded to regional human rights organizations. They claimed that prisoners were chained naked to the floor in the maximum security section of the yet-to-be renovated prison. The authorities established a local review board to hear prisoner complaints and to monitor progress at the prison, but government officials and concerned private individuals agreed that problems are likely to continue until funds can be found to build a new prison outside the city precincts.

The women's prison facility is separate and has not experienced the problems encountered in the men's prison. There is no separate facility for juveniles, who are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects these provisions in practice. 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.

The Government does not use forced exile.

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences. There 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 provides legal assistance at public expense to persons without the means to retain a private attorney. Courts can reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are 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. Although the authorities generally respect these provisions in practice, the Government has restricted opposition parties' access to electronic media, effectively denying them equal coverage. The Government owns one of the two general interest radio stations and the single television station. A religious station broadcasts without impediment. One of the Prime Minister's brothers owns the second radio station, and another brother is the principal owner of the sole cable television company. The government-controlled media report regularly on the activities of the Government and the ruling party but limit their coverage of and access by opposition parties.

These restrictions led opposition leader Baldwin Spencer to initiate a constitutional challenge in 1993. In 1997 the High Court determined that the Government had denied Spencer his constitutional right to freedom of expression and called on the Government to provide the opposition with greater media access in the future. However, this ruling has had limited impact in practice. The Government continues to restrict opposition access to the media, and there continue to be allegations of censorship as the result of subtle coercive pressure by influential persons. The March 1999 report of the Commonwealth observer group that monitored the general elections noted that the governing ALP party received the greatest share of political coverage by the government-controlled electronic media. The report also indicated that fair and equal access to publicly owned electronic media did not appear to be available to opposition party figures.

However, print media, including daily and weekly newspapers, are active and offer a range of opinion, often publishing vigorous criticism of the Government. Nevertheless, efforts by print media to expand into electronic media have been re-

stricted. In 1996 a daily newspaper attempted to start a radio station but has been unable to secure a license to operate. The authorities charged the owners with operating a radio station without a license. The case went to trial, and the judge found in favor of the Government, charging the newspaper owners with criminal conduct and finding them liable for damages. The owners sued the State in December 1996 for illegal search and seizure and claimed that their constitutional right to broadcast had been violated. In December 1997, the judge ruled that constitutional rights had not been violated, even though the owners could rightly claim significant delay; the judge found that the Government had not been inconsistent in this case, since it had not granted other licenses. In 1998 the owners appealed the case to the Privy Council in London, pointing out that a progovernment station had been granted a license. On November 14, the Privy Council ruled in favor of the appellants, after finding that the Government had submitted fraudulent licenses and deceptive evidence to the court. (The Government had presented licenses supposedly issued to the Bird family for 25 years, but the signature on the licenses was that of an official who had retired prior to the date of issuance, and the law permitted licenses to have a validity of 1 year only.) The Privy Council ordered the Government to assign the appellants a broadcast frequency within 14 days. On November 15, the Government said that it would take steps to introduce new regulations to govern broadcasting, and on November 27, the police returned the impounded radio station equipment to the owners, who planned to begin broadcasting as soon as possible.

The police still have not issued an official report of their investigations in three possible arson attacks in November 1998. An arsonist destroyed an opposition newspaper; a fire of suspicious origin badly damaged the Ministry of Information; and the opposition United Progressive Party's outdoor convention site mysteriously was set on fire.

In March 1999, a newspaper dismissed two journalists due to a controversy surrounding a news story critical of the Government. The foreign-born newspaper publisher dismissed the reporters for making public their opposition to the publisher's decision not to publish the article critical of the Government just prior to the general elections. The Caribbean Association of Media Workers criticized the dismissals as undermining the newspaper's editorial independence and as a threat to press freedoms.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. The police normally issue the required permits for public meetings but sometimes deny them in order to avert violent confrontations. While the authorities placed some restrictions on demonstrations in the past, the opposition held numerous rallies and public meetings to promote its platform without any interference.

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

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

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

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

The Government assesses all claims by refugees under the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years; the last general elections were held in March 1999. The law obligates the Government to hold voter registration during a fixed period (of only 5 days) each year, and parties conduct their own registration drives free of government interference.

Except for a period in opposition from 1971 to 1976, the Antigua Labour Party has held power continuously since 1951. The opposition has charged that the ALP's

longstanding monopoly on patronage and its influence over access to economic opportunities make it extremely difficult for opposition parties to attract membership and financial support. In 1992 public concern over corruption in government led to the merger of three opposition political parties into the United Progressive Party.

The Commonwealth observer group that monitored the 1999 elections issued a report that noted irregularities in the electoral process and assessed the elections as free but not fair. The report indicated that the voters' register stood at 52,348 voters, of a total population of approximately 69,000 persons. Since 40 percent of the population were estimated to be below voting age, the voting rolls appeared to be inflated. According to the observer group, the voter registration period, which is limited to only a week every July, appeared too restrictive and potentially disfranchises citizens, such as persons who would reach the voting age of 18 after July but before the elections. The observer group recommended the establishment of an independent electoral commission to improve the voter registration process. By year's end, the Government had not acted on these recommendations.

There are no impediments to participation by women in government and politics, but they are underrepresented. No women have been elected or currently serve in the House of Representatives. Two women are senators, which are appointed positions. Eight of the 14 permanent secretaries (the top civil servant position in ministries) are 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 have been formed. There were no requests, other than the letters from prisoners (see Section 1.c.), for human rights investigations or inquiries from individuals or international human rights groups during the year. In 1995 the Government created the post of Ombudsman. In 1999 the Ombudsman reviewed 220 cases, twice that of the previous year. The office of the Ombudsman generally is well regarded. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, his recommendations often are not implemented to the satisfaction of alleged victims of government abuse and injustice.

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

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally observed its provisions.

*Women.*—Violence against women is a recognized social problem. It is treated as a matter of public conscience, and there are nongovernmental social welfare groups focused on the problem. Women in many cases are reluctant to testify against their abusers. However, Parliament approved domestic violence legislation in January 1999, which supplements the 1995 Sexual Offenses Act. The latter provides penalties for rape and other sexual offenses. Organizations such as the Government's Directorate of Women's Affairs seek to increase women's awareness of their rights under the law. Police generally refrain from intervening in cases of domestic violence, and some women have charged credibly that the courts are lenient in such cases.

While the role of women in society is not restricted legally, economic conditions tend to limit women to home and family, particularly in rural areas, although some women work as domestics, in agriculture, or in the large tourism sector. Although the Government pledged to provide better family planning services, educational opportunities, and job training, it has been slow to implement new programs. The Directorate of Women's Affairs exists to help women advance in government and the professions, but there has been little progress.

*Children.*—The Government provides education for children through the age of 16; it is free, universal, and compulsory. Children have access to health care and other public services.

Child abuse remains a problem. While the Government has repeatedly expressed its commitment to children's rights, it has done little to protect those rights in practice. The Government still plans to establish a committee on children's rights and indicated it intends to strengthen monitoring and implementation of the U.N. Convention on the Rights of the Child. UNICEF helped support a study of the needs of children and families, and its recommendations are being used to develop a National Plan of Action on Child Survival, Development, and Protection.

*People with Disabilities.*—No specific laws mandate accessibility for the disabled, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There is no evidence of widespread discrimination

against physically disabled individuals, although the Government does not enforce the constitutional antidiscrimination provisions.

*Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to associate freely and to form labor unions, and the authorities generally respect these rights in practice. Approximately 75 percent of workers belong to a union, and the hotel industry is heavily unionized. There are two major trade unions: The Antigua Trades and Labour Union (ATLU) and the Antigua Workers' Union (AWU). The ATLU is associated with the ruling ALP, while the larger and more active AWU is allied rather loosely with the opposition.

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, there can be no strike. Because of the delays associated with this process, unions often resolve labor disputes before a strike is called.

Unions are free to affiliate with international labor organizations and do so in practice.

*b. The Right to Organize and Bargain Collectively.*—Labor organizations are free to organize and bargain collectively. The law prohibits antiunion discrimination, and there were no reports that it occurred. Employers found guilty of antiunion discrimination are not required to rehire employees fired for union activities but must pay full severance pay and full wages lost by the employee from the time of firing until the determination of employer fault. There are no areas of the country where union organization or collective bargaining is discouraged or impeded.

There are no export processing zones, but there are free trade zones which facilitate services such as international banking and gambling. The Labor Code applies fully to workers in these zones as elsewhere in the country.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, including that by children, and they do 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. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, effectively enforces this law. There have been no reports of minimum age employment violations. The law prohibits forced or bonded child labor, and it is enforced effectively (see Section 6.c.).

*e. Acceptable Conditions of Work.*—Minimum wage rates, which were established by law for various work categories in 1981, have never been revised and generally are viewed as irrelevant to current economic conditions. The Ministry of Labor periodically surveys average wages paid in various sectors and issues these as guidelines to prevailing market wages. The guidelines are not compulsory. The Ministry provides them to reflect increasing wage expectations, and to offset not having yet updated the 1981 minimum wage rates. In 1999 the guidelines indicated that employers pay an average salary of \$92.60 (EC\$250) per week, although the range of actual salaries varies widely, depending on skill level and experience. The existing published minimum wages for a variety of jobs would not provide a decent standard of living for a worker and family, and in practice the great majority of workers earn 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 is 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 will continue to pay 60 percent of wages for an additional 7 weeks, covering 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. There were no recent reports that persons were trafficked to, from, within, or through the country.

## ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In October 1999, voters elected President Fernando de la Rúa; in December 1999, he replaced Carlos Menem of the Justicialist Party. The elections were considered free and fair. The judiciary is generally independent but is inefficient and subject at times 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 Interior Minister, as do the Border Police ("gendarmeria") and Coast Guard. The PFA also has jurisdiction in the federal capital. Provincial police are subordinate to the respective governor. Members of the federal and provincial police forces and the federal prison guards continued to commit human rights abuses.

Argentina has a mixed agricultural, industrial, and service economy. Following several years of economic growth during an economic reform and structural adjustment program, which included privatization and trade and financial sector liberalization, the economy slowed in 1998 and in 1999 entered a recession. There was no real economic growth during the year. Unemployment rose to 13.8 percent in 1999 and in October it had reached 14.7 percent. Income disparities remain a serious problem; the wealthiest 10 percent of the population received 36 percent of total personal income, while the poorest 10 percent received 1.5 percent of total personal income during the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police officers continued to commit extrajudicial killings. Police torture and brutality are serious problems. In some cases the authorities investigated and sanctioned officers responsible for abuses. Prison conditions are poor. Police arbitrarily arrested and detained citizens, and lengthy pretrial detention is a problem. The judicial system is inefficient and is subject at times to political influence and to inordinate delays in trials. There were many reports of harassment, threats, and criticisms of the press by public officials. Police used violence against demonstrators on a number of occasions during the year, with one person killed as a result. Violence and discrimination against women also are problems. Child abuse and child prostitution continued to be serious problems. Anti-Semitism is a problem; however the Government took steps to combat it. Discrimination against indigenous people persist. Child labor is a problem. There were reports that women, and unconfirmed reports that children, were trafficked into the country.

The legacy of the human rights abuses of the 1976-83 military regime continued to be a subject of intense national debate, particularly the arrest of former junta leaders on charges of taking or seizing babies born to dissidents in detention and giving them to supporters for adoption. Efforts by judges in Cordoba and Bahia Blanca to institute "truth trials" in an effort to force the military to provide information on the fate of those who disappeared during the military regime met with resistance on the part of those called to testify.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings; however, police officers were responsible for a number of extrajudicial killings. The authorities investigated and in some cases detained, tried, and convicted the officers involved.

According to reports from nongovernmental organizations (NGO's), the police committed between 20 and 30 extrajudicial killings during the year. In July Amnesty International (AI) reported that 59 persons had died under suspicious circumstances in police stations throughout the country in the last 5 years. According to the report, of the 81 police officers implicated in the deaths, 36 were sentenced, 43 have been indicted, and 2 were cleared of charges.

On March 2, police in Buenos Aires killed two men who had taken hostages during an attempted robbery. After government negotiators failed to get the men to surrender, they entered a family home where they took three persons hostage and threatened to kill them. Government snipers then shot and killed both the hostage-takers.

AI reported that on February 16, transvestite Vanesa Lorena Ledesma, also known as Miguel Angel Ledesma, died while in police custody; the body showed signs of torture (see Sections 1.c. and 5). However, later the court denied police involvement and claimed that the victim died of a drug overdose.

On March 25, 28-year-old Jose Segundo Zambrano and 25-year-old Pablo Marcelo Rodriguez disappeared in Mendoza province. Their bloodstained car was found several days later, but their bodies were not discovered until July 3. The two men reportedly were police informants who had provided information about police officers who were involved in illegal activities. The victims' relatives and human rights organizations claimed that the killings were related to a police "mafia." By the end of July, the authorities had detained 21 officers, 4 of whom faced trial at year's end. Three were active-duty police and one was a former police officer.

In April police detained Juan Marcelo Carunchio, a 19-year-old man living in Cordoba province, on his way to a concert. A witness reported that she saw the police beat Carunchio and take him away. Following his detention, he was hospitalized in a coma and died a few days later. The authorities suspended five police officers suspected of involvement in the incident. On April 20, the authorities detained Francisco Eladio Bravo, head of the special forces unit, but further information was not available by year's end.

On July 2, two armed police intercepted a truck in Jujuy province, forced Manuel Fernandez to get out, and shot him from behind in the head. They allegedly planted cocaine and a weapon on the man and claimed that an armed encounter had taken place. On July 4, a judge ordered 10 police detained on suspicion of involvement in this case. As of November, they were still being detained, but no one had yet been charged.

In July in Corrientes province, police arrested 26-year-old Jorge Marcelo Gonzalez, whom they mistook for a car theft suspect and took him to police headquarters. They then tortured him and fatally shot him in the back of the neck. The police then attempted to convince the owner of the car to report it as stolen. On July 4, the authorities detained four police officers in connection with Marcelo's death. In July the authorities accused personnel of the Federal Penitentiary Service of ordering the murder of Gaston Maximiliano Noguera, an inmate at the Caseros prison. Noguera was one of a group of prisoners allowed to leave prison to commit crimes, apparently with the consent of the Federal Penitentiary Service officials in this prison. According to the Ministry of Justice and Human Rights, on the night of January 3, when he was supposed to have been in the Caseros prison, Noguera robbed a restaurant and killed a police officer. On January 4, he was found hanged in his cell. Carlos Sandez Tejada, a fellow inmate, claims to have killed Noguera as part of a deal made with prison officials. Noguera's prior cellmate, Miguel Angel Arribas, was going to provide testimony to the Ministry of Justice and Human Rights about the system of release for robbery but penitentiary guards shot him in December 1999 while transferring him to another prison. At year's end, the judge investigating the case was under 24-hour protection after having received threatening phone calls and a small wooden coffin sent to his home.

On November 10, in Salta province, provincial police efforts to breakup roadblocks mounted by unemployed workers resulted in the death of one protester. Incited by the violence, demonstrators later burned several buildings and looted stores in the towns of General Mosconi and Tartagal. Ultimate responsibility for the protester's death is still unresolved, with both other picketers and the provincial police potentially suspected.

The authorities have charged 10 persons, including 3 police officers, for the killing of 2 hostages trapped in a car during a bank robbery on September 17, 1999, in Villa Ramallo. One police officer, Aldo Cabral, provided the transmitter the robbers used during the bank robbery; the two others, Ramon Leiva and Oscar Parodi, reportedly were the officers who fired the shots that killed the hostages. Trial is scheduled for April 2001.

An investigation continued in the December 1999 deaths of two persons several blocks from a protest in which police fired tear gas and rubber bullets into a crowd of persons protesting the Federal Government takeover of the provincial government in Corrientes province; at least 40 persons were injured.

In April 1999, a court convicted a former chief of police of Rio Negro province and sentenced him to 26 months in prison for obstructing justice in the investigation of the November 1997 deaths of three young women in the town of Cipolletti. The authorities also charged two army officers, Claudio Kielmasz and Guillermo Gonzalez, with killing the women; their trial is scheduled for March 2001. The victims' families remain disappointed as they suspect that more than two persons were involved in the crime, and that details were covered up during the investigation.

In February in Buenos Aires province, a court convicted eight defendants, including a former police officer, of killing news photographer Jose Luis Cabezas in 1997 (see Section 2.a.).

In August in Mendoza the trial began of seven policemen and two civilians under indictment in the 1997 death of 18-year-old Sebastian Bordon. Several of these offi-

cers were among the 134 officials dismissed by Mendoza authorities on charges of misconduct in January 1999. In December a court found the officers guilty; however, it set them free because they had already served sufficient time in prison to be released. The court awarded the Bordon family compensation of \$70,000 (70,000 pesos); half to be paid by the provincial government and the other half by the four officers.

Several army officers were among 11 suspects in the investigation of an alleged coverup of the March 1994 death of army recruit Omar Carrasco. In 1996 the Federal Court of Neuquen sentenced Ignacio Canevaro to 15 years in prison, and Cristian Suarez and Victor Salazar to 10 years each, for the killing. They appealed the verdicts, and in 1996, the Supreme Court decided to uphold the lower court's decision. In April lawyers appealed the case again, this time claiming that there was substantial new evidence; however, in October, the Federal Court of Neuquen upheld its original sentence. On November 23, the authorities released both Suarez and Salazar based on a law that allows 1 year of good behavior in prison to count for 2 years of a sentence. They both served over 6 years of their 10-year sentence; Canevaro remained in prison at year's end.

Investigations continued into the 1994 bombing of the Buenos Aires Jewish community center (AMIA), in which 86 persons were killed, and the 1992 bombing of the Israeli Embassy in Buenos Aires. Fifteen former police officers have been linked to a stolen vehicle ring, which furnished the van used in the AMIA bombing, and face various criminal charges (see Section 5). The defendants' trial is scheduled for April 2001.

No new information was available in the following cases from previous years: the investigation of police officers Nestor Trotta and Roberto Martini for the killing of a youth in 1999; the investigation into the death of Carlos Andres Sutara in 1998, in which 14 police officers were implicated; the investigation of a police officer in connection with the killing of Walter Repetto in 1998; and the investigation of four police officers in the death of Juan Carlos Cardozo in 1999.

On February 9, 1998, the authorities detained five police officers from Rio Negro, including two chiefs of police, for the December 1989 murders of Sergio Sorbellini and Raquel Laguna. A court reportedly indicted the officers later that year, but all five police were later released without charges. At year's end, the investigation was still pending.

In October 1999, Spanish Judge Baltasar Garzon charged 186 persons with various crimes committed during the "dirty war" that the 1976-83 military regime conducted against alleged extremists. In November 1999, Garzon indicted the leaders of the military junta, including former military leaders General Leopoldo Galtieri, General Jorge Videla, Admiral Emilio Massera, and 95 other officers, including 1 active federal judge, on charges of torture, terrorism, and genocide. The courts had sentenced Videla, Massera, and Galtieri to life in prison in 1985, but former President Menem pardoned them in 1990. The 1986-87 "full stop" and "due obedience" laws put an end to further trials stemming from dirty war offenses. Judge Garzon continued efforts to extradite a number of Argentine citizens during the year, but the Government did not act on the requests on the basis that those charged already had been tried, convicted, and pardoned under Argentine law.

Two retired military officers were arrested overseas on the basis of international arrest warrants for abuses allegedly committed during the military regime. On August 7, on the basis of a warrant issued by France, Italian authorities arrested retired Major Jorge Olivera in Rome, charged with participation in the kidnaping of a French citizen in San Juan province in 1976. Following an extradition request presented by France in early September, the Penal Court of Appeals of Italy released him on September 19 after ruling that under Italian law, the statute of limitations for the crimes of kidnaping and torture had lapsed. Olivera returned to Argentina, but later in the month, the authorities confirmed accusations made by human rights groups that the document that had allowed his release was a false death certificate. The Italian Ministry of Justice and Human Rights and the General Prosecutor started to investigate the proceedings of the case, and at the same time French judicial authorities requested that Olivera be arrested if he should try to leave the country.

On August 24, on the basis of an arrest warrant issued by Judge Garzon in 1998 related to charges of genocide, terrorism, and torture during the military regime, Mexican officials arrested retired Lieutenant Commander Miguel Angel Cavallo in Cancun. Cavallo had been working for several years as a businessman in Mexico. At year's end, Cavallo's extradition to Spain was pending in the Mexican Justice Ministry, a decision that must be finally approved by the Mexican Foreign Minister. Argentine judicial authorities rejected Cavallo's request for extradition to Argentina.

These incidents demonstrated that while many of those accused of dirty war offenses are safe from prosecution in Argentina due to immunity laws, they run the risk of arrest if they travel abroad. In October Judge Juan Galeano filed a request with the Chilean Government for the arrest and extradition of General Pinochet for his involvement in the killing of Chilean General Carlos Prats in Buenos Aires in a car-bomb attack in 1974. The Prats killing has been under pretrial investigation for several years. At year's end, a Chilean response to the extradition request was pending and had been the subject of judicial proceedings in that country.

In March a federal court gave former naval officer Alfredo Astiz a 3-month suspended jail due to statements he made during a January 1998 interview with a news magazine in which he claimed that he was a trained killer of political and media targets. The navy stripped Astiz of his rank and retirement pay following the interview. Astiz is subject to an Interpol arrest warrant for human rights violations committed during the 1976-83 dirty war period. This warrant is based on his 1990 sentence to life imprisonment in France (where he was tried in absentia) for his role in the disappearance of the French nuns Alice Domon and Leonie Duquet. He has also been linked to the disappearance of a Swedish teenager, Dagmar Hagelin.

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

The provincial police in Mendoza province compensated the families of Adolfo Garrido and Raul Bigorria, who disappeared in 1990 and are believed to have died in police custody, with a total of \$220,000 (220,000 pesos) as recommended in 1998 by the Inter-American Court for Human Rights.

Most reliable estimates place the number of those who disappeared during the dirty war at between 10,000 and 15,000 persons. In 1984 the National Commission on Disappeared Persons (CONADEP) issued a report listing 8,961 names of such persons, based on public testimony from friends, relatives, and witnesses. Since then the Ministry of Justice and Human Rights' Under Secretariat for Human Rights, which inherited the CONADEP files, has added over 700 new names, also based on voluntary reporting. At the same time, other names have been removed from the original list, either through confirmation of the death or survival of the person who disappeared, or through the identification of duplicate entries. The absence of documentary records of those who disappeared means that the Government must rely on public testimony, either voluntary or court-ordered. As CONADEP noted in its report, "It has been possible to determine that an important quantity of documentation existed which has been destroyed or which is being concealed by those responsible for the repression."

The Under Secretariat for Human Rights accepted claims for financial compensation from families of persons who died or disappeared during the dictatorship under a law that permitted filing of applications until May. It had received nearly 9,000 claims by the deadline; at year's end the Senate had approved a bill extending the deadline for 3 more years. A law granting former prisoners of the military regime the right to apply for compensation from the Government expired in September 1998. The Under Secretariat, which administered the law, received over 12,000 applications, and by year's end had approved over 7,000 of them. While some human rights groups routinely claim that the number of disappeared was as many as 30,000, the fact that less than half that number of applications for compensation has been received suggests the lower figure of between 10,000 and 15,000 may be more accurate.

Despite military immunity laws and pardons, investigators continued efforts to hold members of the former military regime responsible for the kidnaping and illegal adoptions of children born to detained dissidents during the dirty war. At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate such kidnaping and illegal adoption cases, thought to number approximately 250-300.

In December 1999, the authorities arrested retired General Guillermo Saurez Mason in connection with a child kidnaping case. In March they put 73-year-old retired General Juan Bautista Sasiain under house arrest, charged with participating in the kidnaping and concealment of 11 children of women prisoners during the military regime. Retired General Santiago Omar Riveros was arrested in August, bringing to at least nine the number of former general officers arrested in connection with baby kidnaping cases. As in the case of most of the other retired general officers, Riveros was released to house arrest due to his age. Former Army General Jorge Rafael Videla, the de facto president from 1979 to 1981, remains under house arrest, following his initial arrest in June 1998. The kidnaping cases are being investigated by three federal judges, Judges Bagnasco, Servini de Cubria, and Marquevich. By year's end, Judge Bagnasco was concluding his investigations and was prepared to turn his investigator reports over to an oral court for trials. Investigations by the two other judges continued at year's end.

In November Federal Judge Gabriel Cavallo ordered the preventive arrest of former police agents Julio Simon, known as "Julian, the Turkey", and Juan Antonio del Cerro, known as "Colors", and charged them with kidnaping 8-month-old Claudia Poblete in 1978. Poblete was the daughter of Gertrudis Hlaczik and Jose Poblete, who were detained in 1978 and are among those persons who disappeared.

In December 1999, Congress voted to block former General Antonio Bussi, who is charged with human rights abuses including torture and deprivation of liberty during the period of the dirty war, from taking his seat in the legislature. In May the lower house of Congress in an all-but-unanimous vote confirmed the earlier denial of Bussi's right to occupy a seat in that body.

In August the Supreme Court ruled against the Supreme Council of the Armed Forces, which had attempted to assert jurisdiction over the baby theft case. The Supreme Court decided that the case should continue under the jurisdiction of the civilian courts.

AI reported in May that Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi received death threats, apparently related to the investigations that the two were involved in regarding the kidnaping of children during the dirty war and other human rights abuses carried out during that period (see Section 1.e.).

In 1999 the Government created a reparation fund to be used by the Grandmothers of the Plaza de Mayo in carrying out activities to find and return children stolen from their parents during the 1976-83 military regime. The fund authorized \$600,000 (600,000 pesos) over 2 years, starting in January 1999, with the money coming directly from the national congressional budget. While full disbursement of this money has been delayed because of funding shortfalls, the fund has allowed the Grandmothers of the Plaza de Mayo to carry out a nationwide advertising campaign that resulted in more than 70 individuals coming forward to ask the organization's assistance in confirming their true identities.

In September a 23-year-old woman who had been ordered by a court to provide a blood sample for DNA analysis to determine whether she was one of the kidnaped babies was arrested and held overnight for refusing to comply. Her attorney succeeded in obtaining her release after citing her threat to commit suicide if the authorities proceeded with the forcible blood extraction.

In the disappearance case involving survivors of the Tarnopolsky family, Admiral Massera, who was ordered by the Supreme Court in September 1999 to pay \$120,000 (120,000 pesos) to a Tarnopolsky family member, refused to follow the court's directive. In November a lower court ordered Massera's "forced bankruptcy" in a further effort to oblige the former admiral to obey the earlier court order.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Criminal Code provides penalties for torture that are similar to those for homicide; however, police torture and brutality remain serious problems. Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the police forces. In June 1997, the U.N. Committee against Torture criticized the Government for tolerating continued brutality and the use of torture in police stations and prisons. In December 1998, the Government responded to the U.N. Committee's criticism but did not make its reply public.

The body of a transvestite who died in police custody on February 16 reportedly showed signs of torture (see Sections 1.a. and 5.).

In March a group of police officers who were looking for the killers of a colleague in Carlos Paz (Cordoba province) fired between 15 and 20 shots at a van and beat up the 2 men in the van, a dentist, Humberto Gorritti, and businessman Raul Calvo. The police admitted later that they had made a mistake. This case remains under investigation.

In April relatives of 23-year-old Cristian Omar Lopez accused police officers of Diamante district (Entre Rios province) of beating him seriously after he and a group of friends were forced by the police for no apparent reason to leave a dancing place. At year's end, Judge Hugo Perotti was carrying out an investigation.

In July in Corrientes province, police tortured a man before killing him (see Section 1.a.).

In July Mason Aldo Bravo accused a group of officials from the Investigation Bureau of the Provincial Police of Santiago del Estero of kidnaping him for 3 days and torturing him. According to his report, the policemen broke into his house at night and attacked him. Judge Mario Castillo Sola was investigating the case.

In September police arrested 25-year-old Ariel Simonini in Tres de Febrero (Buenos Aires province) and charged him with stealing a weapon. According to Simonini, no evidence was found but before releasing him, a policewoman allowed three former police officers and a former intelligence official, who themselves were under

arrest, to torture Simonini. Simonini reported that they kicked and beat him in the stomach, head, legs and ribs. The authorities charged the policewoman as the instigator of the torture and the four men involved as participants.

Police used tear gas and rubber bullets to disperse protesters on numerous occasions, resulting in injuries (see Sections 2.b. and 6.a.). In one incident in Salta province, one protester was killed under circumstances that could have been the result of excessive use of force (see Section 1.a.).

During congressional debate over a labor reform law in April, federal police used force to suppress a group of protesters and injured over 30 demonstrators with blows and by firing rubber bullets. One demonstrator received a bullet wound from unknown sources. The Government disciplined 12 police officers for excessive use of force (see Sections 2.b. and 6.a.).

Prison conditions are poor. Many prisons and jails are overcrowded, and some facilities are old and dilapidated. According to the Federal Penitentiary Service and by the different provincial jurisdictions, in 1999 the prison system held 43,126 inmates in facilities designed to hold 23,523 persons, indicating a serious overcrowding problem.

Reliable information on medical care and food available to prisoners is unavailable, but the general impression is that such services are minimal and of low quality. The Buenos Aires provincial government has considered various solutions, including renting temporary warehouse quarters, and was considering building 18 new prisons in various police districts, but had taken no action to do so by year's end.

Pretrial prisoners cannot be held together with convicted prisoners, but reliable reports indicate that this form of prisoner separation often is not respected. Separate facilities for men and women and for adults and minors are provided for under the law and are available in practice. Facilities for women and for minors are not subject to the same serious overcrowding as prison facilities for men.

Security is a problem at some prisons and detention facilities, at times resulting in jailbreaks. In 1999 there were 60 reported cases of prison riots in facilities around the country.

The Government permits prison visits by independent human rights monitors.

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

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, or if they are unable to determine the identity of a suspect. However, human rights groups argue that this provision of law is abused widely, that police often ignore the requirement that suspects must be unable to identify themselves, and often detain suspects who in fact do have identification.

Police occasionally detain teenagers and young adults, sometimes overnight, sometimes for an entire weekend, without formal charges. They do not always provide such detainees with the opportunity to call their families or an attorney. These detainees are released only upon a complaint from relatives or legal counsel.

In March 1999, the Federal Government promulgated Decree 150, which instructs police to prevent conduct that “without constituting misdemeanors nor infractions in the code of misdemeanors, should be avoided.” This decree is interpreted to allow the police to detain persons for carrying suspicious objects or potential weapons. Critics complained that the decree revived the old police edicts that had been in effect until the Buenos Aires City Council passed its Code of Misdemeanors in March 1998. Human rights groups long had argued that these edicts were used as an excuse for arbitrary detentions, particularly of young persons, immigrants, prostitutes, and transvestites.

The law allows pretrial detention for up to 2 years, and the slow pace of the justice system often results in lengthy pretrial detentions. If convicted, a prisoner usually receives credit for time already served. Three-fourths of the inmates in the federal prisons of the greater Buenos Aires area were reportedly in pretrial detention. In the prison system of the province of Buenos Aires, this figure was reported to be as high as 90 percent. The law provides for the right to bail, and it is utilized in practice.

The law does not permit forced exile, and it is 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 processes are inefficient, and at times subject to political influence. The system is ham-

pered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Allegations of corruption are reported widely, especially in civil cases.

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 Council of Magistrates has responsibility for submitting to the President for his decision a slate of three qualified candidates for each federal judicial vacancy. The council is also responsible for conducting impeachment hearings on judges implicated in wrongdoings and for general administration of the federal court system. It began the process of selecting candidates for judicial vacancies in several parts of the country in September 1999. Nonetheless, it still does not function fully; the number of judicial vacancies has increased significantly, and a number of impeachment cases against judges remain to be resolved. The council made its first recommendations to the executive on the appointments of new judges in July. Of the candidate lists advanced to him by the Council of Magistrates, President de la Rúa nominated two judges during the year. However, the Senate confirmed neither judge, as is required by law. At year's end, there were federal judicial vacancies for more than 113 positions nationwide. A number of prominent cases to discipline judges were initiated during the year, but were moving extremely slowly through the investigation process.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. The law does not mandate a trial by jury. Federal and provincial courts continued the transition to oral trials in criminal cases, instead of the old system of written submissions. However, substantial elements of the old system remain. For example, before the oral part of a trial begins, judges receive written documentation regarding the case, which, according to prominent legal experts, can bias a judge before oral testimony is heard. Lengthy delays in trials are a problem.

AI reported in May that Judge Maria Romilda Servini de Cubria and her judicial secretary Ricardo Parodi received death threats, apparently related to the investigations that the two were involved in regarding the kidnaping of children during the dirty war and other human rights abuses carried out during that period (see Section 1.b.). AI called on the Government to protect the work of Judge Servini and Parodi.

In June 1998, the Government allowed Father Juan Antonio Puigjane to leave prison and serve the remainder of his term under house arrest. Puigjane, a Capuchin monk, was a leader of the leftist "All for the Fatherland" movement, which in 1989 assaulted the La Tablada army barracks. Although he did not take part in the assault and denied any foreknowledge of it, the court sentenced him to 20 years in prison. Members of the movement who were involved in the 1989 attack are recognized by some international human rights groups as having been jailed for political reasons, but the Government maintains that those involved were tried and convicted properly of involvement in a violent rebellion against a democratically elected government.

The release of Puigjane followed the publication of a 1997 report by the Inter-American Commission on Human Rights (IACHR) on La Tablada, in which the IACHR absolved the Government of the use of excessive force in repelling the assault but concluded that the Government committed human rights violations after the attackers had surrendered. The IACHR also found that the Defense of Democracy Act, under which the La Tablada defendants were tried and convicted, effectively denied them the right of appeal.

In September the La Tablada prisoners launched a hunger strike to bring further pressure on the Government to act on their demand for an appeal. Efforts since 1998 to pass legislation that would have allowed the defendants a chance to appeal their earlier convictions ended in December when the legislation failed to gain the necessary support in both chambers of Congress. Following that, the Supreme Court rejected by a vote of 5-4 a request by the defendants for an appeal. With the legislative and judicial routes thereby closed, on December 29, the President, still under strong international pressure from the IACHR and a wide range of human rights groups, signed a decree commuting the sentences of 11 of the 13 defendants. With these commutations, 9 of the 13 defendants will be eligible for a parole hearing in 2002, one in 2003, and one in 2005. The two leaders of the assault, Enrique Gorriaran and his wife, Ana Maria Sivori, were convicted for their roles at La Tablada only in 1997. Since they were not tried under the Defense of Democracy Act, they were allowed an appeal, which confirmed their earlier life sentences. For this reason, they were not included in the December 29 presidential decree. As a result of the presidential decree, the La Tablada defendants ended their hunger strike after 116 days.

There were no other reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respects these prohibitions. Violations are subject to legal sanction. In practice, local police stop and search individuals without probable cause.

Several highly publicized cases of unauthorized telephone wiretaps in recent years raised public concern, and the Government introduced a bill in Congress in 1998 to prevent such activities, including the unauthorized recording of telephone conversations, the unauthorized photographing or filming of private acts, and the dissemination of such unauthorized records. Various draft laws have been proposed on the control of wiretapping, but none became law during the year. The use of wiretaps approved by a federal judge continued to be governed by a decree issued by then-President Menem in the early 1990's.

*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 respects these rights in practice; however, there were several reports that public officials harassed, threatened, and criticized the press.

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

During the year there were several reports of harassment and threats against journalists, and criticisms of the press by public officials. In its annual report released in September, the Argentine Association of Journalistic Entities (ADEPA), a media observer organization, reviewed several incidents and noted that they occurred principally in the provinces.

In July ADEPA expressed its concern to the provincial government in Santiago del Estero with respect to an incident in which the telephones of El Liberal, a local daily newspaper, were wiretapped. The incident occurred after El Liberal published a story on an alleged intelligence gathering network sponsored by the provincial government. The Inter-American Press Association (IAPA) criticized anonymous threats against three of El Liberal's journalists and the distribution of pamphlets with defamatory information about El Liberal. IAPA representatives met with Interior Minister Storani and expressed their concern over the situation in Santiago del Estero. In November the IAPA sent a delegation to Santiago del Estero to investigate the charges.

In July the Cordoba daily newspaper La Voz del Interior reported the harassment of one of its distributors. An attacker ambushed and threatened the driver of a distribution van with a revolver. The IAPA reported that the attackers informed the driver that the governor was uncomfortable with the content of paper. This incident occurred after La Voz published a series of articles on the questionable practices of provincial government officials of Santiago del Estero, which included accusations of wiretapping and having blueprints of reporters' homes.

In February an appeals court ordered television talk show host Bernardo Neustadt and Zidanelia Pacheco de Maroneses, whom Neustadt interviewed on his program New Times, to pay punitive damages to Judge Elisa Diaz de Vivar in the amount of \$80,000 (80,000 pesos) for allegedly defamatory comments de Maroneses made in 1993 about the judge during the program. The IAPA stated that the award was a setback for the freedom of the press because it would force journalists to censor those they interview, and because it provides special privileges to public officials, who should be open to public scrutiny.

In view of these incidents, many key media sources criticized the apparent lack of commitment on the part of some legislators to implement measures that would protect the role of the media as a "bridge" between politics and civil society, and cited the failure of some public officials to recognize openly the role of an independent media in a democratic society. ADEPA stated that these incidents violated freedom of the press and have recurred in recent years in a systematic fashion.

In February the District Court of Dolores (Buenos Aires province) sentenced to jail terms the eight persons charged with and found guilty of the highly publicized 1997 murder of photo-journalist Jose Luis Cabezas of the weekly magazine Noticias. The court sentenced some to life sentences without parole, and gave the others life sentences with parole. Although never confirmed, many believe Cabezas was murdered by operatives of the late businessman Alfredo Yabran for photos and stories that he produced regarding Yabran's alleged illicit activities. ADEPA expressed satisfaction with the sentencing of those charged with Cabezas' murder. The IAPA stated that the verdict was a step in the fight against impunity for those who violate freedom of the press. Cabezas' family, however, believes that the intellectual authors

of Cabezas' murder remain free, and that the incarceration of the eight persons who were found guilty does not put an end to the case.

No new information was available regarding the death of newspaper editor Ricardo Gangeme, who was killed in May 1999 in Chubut province.

In November the Supreme Court upheld Eduardo Kimel's 1999 sentence to 1 year in prison (suspended) and a fine of \$20,000 (20,000 pesos) for comments made in a book he wrote. In December the IACHR announced that the case will be investigated as a possible violation of the right to free speech.

The law provides for academic freedom, and the Government respects this in practice.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution and the law provide for freedom of assembly, and the Government respects this right in practice. However, provincial police clashed with public sector protesters on a number of occasions during the year, using rubber bullets and tear gas to disperse protests that turned violent. In some incidents the police used deadly force against demonstrators (see Sections 1.a. and 1.c.).

During congressional debate over a labor reform law in April, labor groups led a march on the Congress. Clashes between protesters and the federal police resulted in injuries to over 30 demonstrators, including injuries from rubber bullets fired by police (see Sections 1.c. and 6.a.). In May several protesters and police officers were injured after the authorities used rubber bullets and tear gas to break up the protest (see Section 6.a.).

An investigation continued into the December 1999 deaths of 2 persons near an area in which the police injured over 40 protesters who were demonstrating against the Federal Government's takeover of the provincial government of Corrientes (see Section 1.a.).

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

*c. Freedom of Religion.*—The Constitution states that the Federal Government "sustains the apostolic Roman Catholic faith;" however, other religious faiths are practiced freely. The Government provides the Catholic Church with a variety of subsidies totaling \$8 million (8 million pesos), administered through the Secretariat of Worship in the Ministry of Foreign Relations, International Trade, and Worship. The Secretariat was transferred from the office of the presidency following the inauguration of President Fernando de la Rúa in December 1999. The Secretariat is responsible for conducting the Government's relations with the Catholic Church, non-Catholic Christian churches, and other religious organizations in the country. Religious organizations that wish to hold public worship services and to obtain tax exempt status must register with the Secretariat, and must report periodically to the Secretariat in order to maintain their status.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and laws provide for these rights, and the Government respects them in practice.

A committee composed of representatives of the Ministries of Justice, Foreign Affairs, and the Interior determines grants of refugee status, using the criteria of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A representative of the U.N. High Commissioner for Refugees may participate in committee hearings, but may not vote. The Government has granted refugee status to numerous persons and accepted refugees for resettlement. The issue of the provision of first asylum did not arise during the year.

In March 1999, the Government granted asylum to former Paraguayan General and coup plotter Lino Oviedo, who fled that country after the assassination of Paraguayan Vice President Luis María Argana, in which Oviedo allegedly was implicated. Oviedo was granted asylum under the condition that he would not participate in political activities. In September 1999, the authorities determined that he had been politically active from his base in Buenos Aires and ordered him moved to Tierra del Fuego province in Patagonia. Oviedo remained there until he fled the country in December 1999; in June he was captured in Brazil.

In September two Paraguayans, Luis Alberto Rojas and Fidencio Vega Barrios, wanted for extradition to Paraguay for their alleged involvement in the 1999 assassination of the Paraguayan Vice President, escaped from the National Police Headquarters in Buenos Aires where they were being held. The authorities had detained them since February; police collusion in the escapes was suspected. At year's end, the two men had not been found and were thought to have fled the country.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic free and fair elections held on the basis of universal suffrage. In October 1999, voters elected Fernando de la Rúa, leader of an alliance of opposition parties, as president; he succeeded President Carlos Saul Menem of the Justicialist party on December 10, 1999.

In December 1999, President de la Rúa requested and received congressional permission to suspend all three branches of the Corrientes provincial government and take direct federal control of the province. Public workers, including teachers, court workers, and public hospitals had been on strike or limiting services for much of the year, due to the provincial government's inability to pay salaries. The situation remained tense in the province during the year; in December, Congress passed legislation that extended the suspension of the Corrientes provisional government for 1 additional year.

There are no legal impediments to participation by women and minorities in politics and government; however, they remain underrepresented. The Constitution stipulates that the internal regulations of political parties and party nominations for elections be subject to requirements to increase women's representation in elective offices. A 1991 law mandates the use of gender quotas by all political parties in national elections. A 1993 decree requires that a minimum of 30 percent of all political party lists of candidates be female. As a result, the presence of women in Congress increased. About one-fourth of the 257 members of the lower house are women. Gender quotas have not applied in the Senate, where there are only 2 female members in the 72-person body. However, a December presidential decree mandates that for future elections in the Senate (with the full chamber being competed in 2001 in first-ever direct elections), at least one-third of all Senators elected must be women. There are two female cabinet-level officials, the Minister of Social Development and Environment and the Minister of Labor, Employment, and Human Resources Training. There are no women justices on 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 operate without government restriction, investigating and publishing their findings on human rights cases. The Government is generally cooperative, although not always responsive to their views.

Some of the best-known human rights organizations include the Mothers of Plaza de Mayo, the Center of Legal and Social Studies, the Permanent Assembly for Human Rights, Service for Peace and Justice, and New Rights of Man. Within the federal government, the Ministry of Justice and Human Rights' Secretariat for Human Rights addresses human rights concerns at a domestic level. Human rights issues at the international level are handled by the Office of the Special Representative for International Human Rights of the Ministry of Foreign Relations, International Trade, and Worship.

In July the new chief of the army appointed by President de la Rúa proposed to establish a dialog among the Government, military, and human rights groups that would attempt to shed light on past abuses committed during the military regime. The proposal largely was rebuffed by human rights organizations, many of which oppose any contact with those officials whom they believe to be guilty of human rights abuses committed by the security forces during the dirty war period.

In November Congress passed a law calling for the human rights commissions of both chambers to write an annual report on human rights in the country, commencing in 2001.

*Section 5. Discrimination Based on Race, Sex, Religion, 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, religion, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

The National Institute against Discrimination, Xenophobia, and Racism (INADI), an agency of the Ministry of Interior, has as its mandate identifying and combating all forms of intolerance in the country. INADI investigates violations of the anti-discrimination law and carries out educational programs to promote social and cultural pluralism and combat discriminatory attitudes. However, early in the year, INADI began a process of reorganization and leadership change, during which its

effectiveness was impaired seriously. With new leadership, the institute was active again by year's end.

In April an AI report expressed concern over reports that police targeted, tortured, and harassed gays, lesbians, and bisexuals. The report included information regarding the February death in police custody of a transvestite whose body showed signs of torture (see Sections 1.a. and 1.c). AI noted that police bylaws and provincial codes of misdemeanors allow police to detain or sanction members of sexual minorities for actions that do not constitute a criminal offence. The Association Against Homosexual Discrimination filed a complaint to the Office of the Human Rights Ombudsman in Cordoba regarding such treatment.

*Women.*—Domestic violence and sexual harassment against women are widely recognized as serious social problems. However, few official statistics on these crimes are available, so any accurate measure of the problems is difficult. The Government, through the National Council of Women, recently implemented a new database system, with the help of UNICEF, to standardize statistics on domestic violence, permit a more accurate evaluation of the scope of the problem, and promote better public policy. During the year, as part of a pilot project, two workshops provided training on the use of the software for this purpose.

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

No statistics on domestic violence were available on a national level. However, as an indicator of the magnitude of the problem, in 1999 the city of Buenos Aires received 25,630 telephone calls regarding family violence. Courts in the city of Buenos Aires received 1,289 formal complaints through August, compared with 2,160 in all of 1999.

Rape is a problem, but reliable statistics as to its extent were not available. The crime of rape falls under the Law of Crimes Against Sexual Integrity, the name of which was changed in 1999 from the former Law of Crimes Against Honesty. This name change, sought by various women's rights groups, recognized that the nature of the crime is not a violation of female purity and chastity, but of the personal integrity of the victim. Marital rape and acquaintance rape are recognized by law, if force is involved, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presents a problem. The 1999 law expanded the definition of punishable sexual violations beyond forcible intercourse and increased the severity of punishments; in addition, it is no longer possible for an accused rapist to be excused from prosecution by offering to marry the victim. The penalties for rape vary from 6 months to 20 years and depend on the nature of the relationship between the rapist and victim and the physical and mental harm inflicted.

Public and private institutions offer prevention programs and provide support and treatment for women who have been abused, but transitory housing is almost nonexistent. The Buenos Aires municipal government operates a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence, but few other shelters exist. NGO's working in the area of women's rights stress that women too often do not have a full understanding of their rights. Women lack information about what constitutes sexual harassment, what can be considered rape, or when physical and emotional abuse is considered a punishable crime.

During the year, Paraguayan authorities uncovered a trafficking ring that sent women and young girls to Buenos Aires, under the guise of working as domestic servants, and then forced them into prostitution (see Sections 6.c and 6.f.).

Despite legal prohibitions, women encounter economic discrimination and occupy a disproportionate number of lower paying jobs. Often they are paid less than men for equivalent work, even though this is prohibited explicitly by law. Working women also are represented disproportionately in the informal sector, where effectively they are denied work-related economic and social benefits enjoyed by registered workers. According to government statistics, in 1999 the underemployment rate for women was twice as high as that of men, and women in general earned 30 percent less than men. The wage differences were more pronounced at higher levels of education; for example, women with a college degree earned 46 percent less than men.

In 1992 the Government created the National Council of Women, an interagency organization under the authority of the President's Cabinet Chief, that carries out programs to promote opportunity for women in the social, political, and economic arenas. The new administration named Dr. Carmen Storani as the Council's Presi-

dent. The Council operates a web site that provides information on the organization and on issues relevant to the organization's goals.

*Children.*—While the Government voices strong commitment to issues of children's rights and welfare, including education and health, increasingly tight federal and provincial budgets mean that programs relevant to these areas continue to receive insufficient funding. The Ministry of Justice and Human Rights' Under Secretariat for Human and Social Rights works with UNICEF and other international agencies to promote children's rights. Education is compulsory, free, and universal for children up to the age of 15; however, adequate schooling is unavailable in some rural areas. There are numerous health care programs for children, although not all children have access to them.

NGO's and church sources indicate that child abuse and prostitution are increasing, although no statistics were available. The National Council for Minors and Family, a government organization reporting to the Ministry of Social Development and Environment, has developed an Action Plan, together with the Attorney General, the Ministry of Justice and Human Rights, the National Council of Women, and UNICEF, on the elimination of child prostitution. The most recent census (in 1991) noted that 4.5 million children under age 14 lived in impoverished conditions. There are street children in some large cities, although there are no reliable statistics on their numbers. There were unconfirmed press reports that Bolivian children sometimes were sold to sweatshops in Argentina (see Section 6.f.).

A May UNICEF report stated that sexual exploitation of children is widespread due to police inefficiency and lack of judicial intervention. The report indicated that the problem is substantial, but statistics on this crime were not available. The children involved usually work in the same institutions as adults. There were reports of children being trafficked from rural areas to urban areas of the country, and vice versa. Women and girls also are trafficked from other countries, although this reportedly involves very few underage girls (see Section 6.f.).

*People with Disabilities.*—A 1994 law intended to eliminate barriers for disabled persons mandates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Street curbs, commuter train stations, and some buildings in Buenos Aires have been modified to accommodate wheelchairs, but many public buildings and lavatories are still inaccessible to the disabled. The Buenos Aires subway system installed a small number of elevators and escalators to facilitate use of the subway system by the disabled, and the subway administration pledged to increase the overall number of escalators in the system.

The law prohibits discrimination against disabled persons in employment, education, and the provision of other state services, and mandates access to buildings for the disabled. There has been some progress in these areas. The National Advisory Commission on the Integration of People with Disabilities—a governmental office—and numerous nongovernmental groups actively defend the rights of the disabled and help them to find employment.

*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 do 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 principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represent less than 5 percent of the national population. The INAI estimates that there are approximately 700,000 indigenous people, most of whom reside in rural areas. However, the nongovernmental Indigenous Association of the Argentine Republic estimates the indigenous population at 1.5 million persons. Other demographers in recent years have provided estimates of at most 450,000 persons. To clarify the discrepancy, the national census scheduled to take place during the year was to have collected information about indigenous identity for the first time; however, at mid-year, funding shortfalls required the Federal Government to postpone the census until the year 2001.

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

Since 1994 the Government restored approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies.

*Religious Minorities.*—Anti-Semitism is a problem; however the Government took significant steps to initiate a public dialog intended to highlight past discrimination, and to improve religious tolerance. Combating this and other forms of intolerance is a priority for the INADI. There were a number of reports of anti-Semitic acts, of anti-Semitic violence, and of threats against Jewish organizations and individuals during the year. During the year, however, no one was convicted for any anti-Semitic acts.

In February a Jewish country club in San Miguel received bomb threats. Following an evacuation of the building, it was established that the threats were spurious. Since it reopened in 1999, there have been several telephoned bomb threats made against the new AMIA Jewish community center building (which replaced the one destroyed by the bombing in 1994). No one has taken responsibility for the bomb threats, nothing was found in the building on these occasions, and no formal investigations were undertaken into the bomb threats.

In April several adolescents allegedly vandalized several tombs in the Jewish cemetery at Posadas, in Misiones province. Local police subsequently arrested seven adolescents between the ages of 12 and 17 in connection with the crime, but the police maintained that the acts of vandalism had no religious connotations.

Most published reports of antireligious acts were anti-Semitic in nature. However, in June statues of Jesus Christ and Saint Augustine were vandalized at a Catholic Church in Buenos Aires. No arrests were reported at year's end.

In January President de la Rúa committed the Government to implementing a Holocaust Education Project to be carried out under the auspices of the International Holocaust Education Task Force. During the year, the Government appointed a special representative to the task force, began a number of projects including a Holocaust monument in Buenos Aires, and donated a building for a Museum of the Shoah. The Ministry of Education is working to include Holocaust education in primary and secondary schools, and the schools now commemorate a national day of tolerance on April 19. In June the Government renewed the charter of the National Commission for Clarification of Nazi Activities (CEANA), in order to enable CEANA to continue its investigations into past pro-Nazi actions on the part of Argentina. In June President de la Rúa made a formal apology for Argentina's acceptance of Nazi war criminals as immigrants after World War II.

The authorities continued to investigate the 1992 bombing of the Israeli Embassy in Buenos Aires and the 1994 bombing of the AMIA Jewish community center, in which 86 persons died.

In May 1999, the Supreme Court (which is responsible for leading the investigation into the embassy bombing) released a report that concluded that the embassy bombing was the result of a car bomb. The court also formally determined that Islamic Jihad was responsible for the bombing, based on claims made by the group following the attack and on similarities with other bombings claimed by the group. In September 1999, the court issued an international arrest warrant for Islamic Jihad leader Imad Mughniyah. In December 1999, the court released a more extensive finding on the bombing, which encompassed the May report.

In late 1999, the Government sought the arrest and extradition of Mohammad Abbas Malik for questioning about the bombing. When he was arrested overseas on other charges, the authorities interviewed him in September, and he denied any connection with the Israeli Embassy bombing. Following the interview, the Government indicated that it had no further interest in Malik with in connection to the 1992 bombing.

In the AMIA case, the investigating judge determined in February 1999 that there was insufficient evidence to charge Iranian Nasrim Mokhtari, long suspected of complicity in the bombing. In July 1999, the Supreme Court ruled that she could leave the country. Wilson dos Santos, who reportedly had linked Mokhtari to the bombing, recanted his testimony in 1999 from earlier that year; the press reported in July 1999 that he had offered to return and testify in exchange for money. An investigator interviewed him in Brazil in 1999, evaluated the proposed testimony, and rejected his offer. However, subsequently the authorities decided to issue charges against Wilson dos Santos, and he was arrested in Switzerland and extradited to Argentina in December. He was charged with having given false testimony in the AMIA case, and the authorities still hope that he will be able to shed light on the events leading up to the 1994 attack.

In July 1999, the authorities brought formal charges against all the suspects being held in connection with the attack, including a number of former Buenos Aires provincial police officers. Fifteen former police officers have been linked to a stolen

vehicle ring, which furnished the van used in the bombing, and face various criminal charges (see Section 1.a.). The provincial police officers and others held in the AMIA case are suspected accessories to the crime and not those who are thought to have planned or executed the actual attack. In late February, the investigating judge formally presented for trial the report on his investigation regarding these suspected accessories. The defendants face charges of various acts of police corruption related to the vehicle used in the bombing. At year's end, Judge Galeano's investigation aimed at finding the actual perpetrators of the bombing continued.

In April President de la Rúa created a new task force of four independent prosecutors to investigate certain areas relating to the AMIA case. On the sixth anniversary of the AMIA bombing, President de la Rúa and much of his Cabinet attended a solemn ceremony commemorating the victims at the now-rebuilt cultural center.

#### *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 this right is observed in practice. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force is organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally have supported the Justicialist Party. Most unions are affiliated with the General Confederation of Labor (CGT). A smaller federation, the Argentine Workers' Central, also is recognized legally. In the early part of the year, the CGT split into two factions, an “official” faction and a “dissident” faction, the latter of which conducted numerous marches and demonstrations—some of which became violent—in an effort to pressure the Government to take a more prolabor stance.

The International Labor Organization's (ILO) Committee of Experts has criticized the law, which allows only one union per industrial sector to negotiate salary, collect dues, and call a strike. The law makes it virtually impossible for new unions to challenge existing unions, thus giving the established unions a monopoly on these fundamental powers of representation. On November 21, the Labor Minister formed a tripartite commission to analyze the ILO observations, including this issue.

During congressional debate over a labor reform law in April, labor groups led a march on the Congress that was suppressed by the federal police, who injured over 30 demonstrators with blows and by firing rubber bullets. Ten police officers were injured in the altercation. One demonstrator received a bullet wound from unknown sources. The Government disciplined 12 police officers for excessive use of force (see Sections 1.c. and 2.b.).

The Constitution provides for the right to strike, and this right is observed in practice. Two national general strikes took place during the year. The first in June effectively shut down most public transportation, government offices, and schools throughout the country as millions of workers representing the three major labor federations protested the May reduction in government salaries, tax hikes, and other expenditure reductions as part of the Government's austerity plan. The second national general strike took place November 23-24, again with the support of all three major labor federations. This strike, in protest of labor reforms and further economic austerity measures, was more successful than the June strike in shutting down not only most public transportation, government offices and schools, but also many stores and businesses. While the November strike was generally peaceful, some prestrike acts of intimidation allegedly by union activists against bus and taxi companies left a number of busses and taxis damaged or burned in Buenos Aires and in other cities around the country. The police arrested no strikers or activists as a result of any of these incidents. In Cordoba, police made 10 arrests and there were at least 9 injuries in an effort to break up a demonstration by municipal workers. During the year, there also were scattered local work stoppage, and several unions, including transport workers, farmers, and teachers initiated numerous local and nationwide strikes to protest various issues including government labor policies, as well as nonpayment and late payment of wages by private companies.

Groups of unemployed and underemployed workers around the country frequently used roadblocks as acts of protest. Hundreds of small incidents took place, with groups of activists blocking roads and highways. Some of these roadblocks were spontaneous actions by groups demanding continuation of federal and provincial unemployment payments and job subsidy programs that were expiring. Others were organized by radical labor and social groups such as the Classicist Combative Movement. While most roadblocks were resolved by negotiated settlements, usually including promises of extended unemployment programs, a number ended in confrontations between the police and strikers. In May the provincial and border police in Salta province used force to disperse truckers at roadblocks, who were protesting

the withdrawal of government funds from a job subsidy program. Several protesters and police officers were injured after the authorities used rubber bullets and tear gas to disperse the protesters. Protesters allegedly looted shops and set a townhall on fire. On November 10, again in Salta province, provincial police efforts to break up roadblocks resulted in the death of one protester (see Section 2.b.). Incited by the violence, demonstrators burned several buildings and looted stores in the cities of General Mosconi and Tartagal. The Federal Government criticized the provincial government's use of force but resisted calls for federal intervention.

Unions are free to join international confederations without government restrictions; many unions also are 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, and these rights are observed in practice. The Ministry of Labor, Employment, and Human Resources Formation ratifies collective bargaining agreements, which cover roughly three-fourths of the work force. According to the ILO, the ratification process impedes free collective bargaining as 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. In recent practice, however, the Government has not refused to approve any collective agreements under the above criteria.

The Labor Reform Law, which went into effect in May, allows collective bargaining on a regional, provincial, or company basis depending on what the local union and company decide. Prior law only permitted negotiations by the heads of the national union on behalf of all the unions in the sector.

The new law also established a mediation service, which was being organized at year's end. Foreign experts, as part of an Organization of America States project, conducted a 1-week training in mediation for labor professionals, particularly government officials.

The new Labor Reform Law lengthened the probationary period for new workers from 30 days to between 90 and 120 days for large companies and to between 6 months and 1 year for small businesses. The new law also ended the practice known as "ultra-activity," which allows existing labor contracts to be renewed if the parties cannot come to terms on a new agreement.

Some labor unions strongly opposed the reform legislation. In August their opposition was strengthened when a bribery scandal emerged over alleged payments to key Senators to encourage votes in favor of the legislation. Most significantly, implementing regulations for the new labor reform law were still in the process of being developed at year's end, with no clear indication of when they would be approved. This fact, and an inconclusive closing in December of the judicial investigation into the alleged bribes, left the final impact of the new legislation unclear.

The law prohibits antiunion practices, and the Government enforces this prohibition.

There are three functioning export processing zones (EPZ's) 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 Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that it was used; however, there were reports that women were trafficked to the country (see Sections 5 and 6.f.). The law also prohibits forced and bonded labor by children; however, there were unconfirmed reports that children were trafficked to the country to work in sweatshops (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employment of children under 15 years of age, except in rare cases where the Ministry of Education may authorize a child to work as part of a family unit; however, child labor does occur in practice and may be increasing. Children between the ages of 15 and 16 may work in a limited number of job categories, but not more than 6 hours a day or 35 hours a week. The penalty for employing underage workers ranges from \$1,000 to \$5,000 (1,000 to 5,000 pesos) for each child employed. On August 25, the President decreed the formal establishment of a National Commission for the Eradication of Child Labor, which is to work with the Government, organized labor, the business community, religious groups, UNICEF, and NGO's. Labor Minister Patricia Bullrich appointed Leandro Haleprin to head the commission.

A 1993 law requires that all children receive a minimum of 9 years of schooling, beginning at age 6. Government census figures indicate that about 5 percent of children between the ages of 6 and 14 are employed, most with older family members.

Local NGO's note that the figure is imprecise and could be as high as 10 percent. In 1999 in the greater Buenos Aires area, 12,500 children age 14 and below were in the work force. In a 1997 report, UNICEF stated that 252,000 children between the ages of 6 and 14 were employed—183,500 in urban areas and 68,500 in the country—principally harvesting tea and tobacco. An August UNICEF report on adolescents found that, for children between ages 13 and 17, 3 percent were in school and also economically active; 7 percent were not in school but were economically active; 84 percent were only in school; and 6 percent were neither in school nor working.

The Government prohibits forced and bonded child labor, and there were no confirmed reports of its use; however, there were unconfirmed press reports that children were trafficked to the country to work in sweat shops (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The monthly national minimum wage is \$200 (200 pesos), which is not sufficient to provide a decent standard of living for a worker and family. It is determined by a tripartite committee and has not been changed for at least 5 years.

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, enforcement of laws governing acceptable conditions of work is not carried out universally, particularly for workers in the informal sector who constitute about 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. In December a presidential decree increased the maximum cash payments and maximum total payments for workers' compensation in an effort to strengthen worker protections. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nonetheless, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

*f. Trafficking in Persons.*—Although there are no laws specifically addressing trafficking in persons, laws against child abuse provide penalties for trafficking children for purposes of prostitution, and other laws prohibit alien smuggling, indentured servitude, and similar abuses. During the year, Paraguayan authorities uncovered a trafficking ring that sent women and young girls to Buenos Aires, under the guise of working as domestic servants, and then forced them into prostitution. In one prominent case, two girls escaped from an Argentine brothel in April and returned to their homes. The Paraguayan authorities charged a number of Paraguayans with involvement in the case; however, at year's end, none had been convicted. An Argentine television station also conducted an investigation of prostitutes working in greater Buenos Aires and reported a number of undocumented Paraguayan women and girls working in slave-like conditions, offering their services as prostitutes in exchange for their clothing, room, and board.

In 1999 police in Spain apprehended two Argentine citizens whom they charged with trafficking in women for purposes of prostitution.

There were unconfirmed press reports that Bolivian children sometimes were sold to sweatshops in Argentina.

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## 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 Hubert A. Ingraham's Free National Movement (FNM) has controlled the Government and Parliament since August 1992. The judiciary is independent.

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

The economy depends primarily on tourism, which accounts for nearly two-thirds of the gross domestic product. Financial services, particularly offshore banking and trust management, are also major sources of revenue. While some citizens enjoy rel-

atively high income levels, there is considerable underemployment and poverty. The unemployment rate remained at 7 percent during the year.

The Government generally respects the human rights of its citizens; however, problems remain in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remain harsh. The police occasionally use arbitrary arrest and detention. Lengthy pretrial detention and delays in trials are problems. Violence and discrimination against women and violence against children also are problems. Discrimination against the disabled and persons of Haitian descent persists.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings. Three prisoners died while in custody at the prison (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 torture and other cruel and degrading treatment or punishment; however, the police occasionally beat and otherwise abused suspects. Many of the charges of abuse involved beatings to extract confessions. Human rights monitors and members of the public continued to express concern over such instances of police abuse against criminal suspects. Police officials continued to deny that there have been violations of defendants' rights. According to officials, these rights are protected by the trial judge, who determines the admissibility of the defendant's statement as evidence at trial.

The Police Complaints and Discipline Unit, which reports directly to senior police officials, is responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant discipline within the police system or, in some instances, criminal prosecution by the Attorney General. Local human rights observers doubt the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believe that many incidents of improper police behavior go unreported. Police officials insist that their investigations are fair and thorough. There were 197 complaints against the police during the year. In 14 cases, the complainant dropped the charges. A total of 26 complaints were dropped because the police were found to be not at fault. The authorities sent 31 cases to the Police Tribunal, and 126 cases were under investigation at year's end. Police officials believe that a continuing turnover in personnel is a contributing factor in disciplinary cases. There are approximately 2,200 officers to police a total population (excluding tourists) of 293,000.

Corporal punishment is permitted by law with some restrictions. For example, caning is permitted at police stations but only if performed by a sergeant or higher ranking official. Cat-o-nine-tails are allowed at prisons but used rarely.

Conditions at Fox Hill, the only prison, continued to improve but remain harsh and overcrowded. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, holds nearly 800 of the prison's total of over 1,400 inmates. The remaining prisoners are housed in medium- and minimum-security units which are currently at, or above, maximum capacity. The prison's female population is around 40 inmates, considerably less than the female unit's full capacity of 200. Male prisoners are crowded into poorly ventilated cells that generally lack regular running water. There are no separate facilities for inmates being held on "remand" (detention pending trial or further court action), although some eventually are segregated in a medium security wing after processing through maximum security. All inmates are screened for infectious diseases, and prison officials estimate that about 7 percent of the incoming prison population is infected with the HIV virus. Most prisoners lack beds. Many of them sleep on concrete floors and are locked in their cells 23 hours per day. Facilities for women are less severe and do have running water. Organizations providing aid, counseling services, and religious instruction have regular access to inmates. In August and September, three prisoners died while in custody at the prison. Prison officials were investigating the cases at year's end.

The Government has provided funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials have instituted some technical and vocational programs, and correctional officers are undergoing instruction to become certified trainers. Modern training facilities are equipped with new computers, and the prison also offers some educational and literacy programs for prisoners. In December an 80-cell minimum security cellblock opened, and the prison is constructing a new 80-cell maximum-security building, scheduled to open in 2001. This building,

which is to have larger cells and more extensive plumbing, should relieve some of the overcrowding in the existing block. Prison officials plan to renovate the current maximum-security unit once the new building is in service.

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

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrest and detain persons. In general the authorities conduct arrests openly and, when required, obtain judicially issued warrants. The Government respects 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 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. They may hire an attorney of their choice, but the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believe that this lack of representation risks hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there is no statistical evidence to indicate that this is more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tend not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities consider foreign offenders more likely to flee if released on bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continue to complain of excessive pretrial detention.

The authorities detain illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements can be made for them to leave the country, or they obtain legal status. The detention center, which had been closed for repairs since suffering extensive damage from Hurricane Floyd in September 1999, reopened in December. Detainees had been housed in the women's prison at Fox Hill where conditions are austere. Female and child detainees were housed together with the general population and were afforded little privacy. Incidents of antagonism between detainees and guards were frequent. Most of these incidents involved the Cuban detainees, a few of whom had been in custody for over a year. There were numerous escapes from Fox Hill prison, particularly by Cuban detainees. In the newly reopened detention center, which can hold up to 600 detainees, women and men are housed separately. Haitians usually are repatriated within 2 weeks. Many detainees are provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally are deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations are held at Fox Hill prison where they may remain for weeks or months after serving their sentences, pending deportation.

Exile is illegal and is not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent 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. Trials are fair and public. Defendants enjoy the presumption of innocence and the right to appeal. Defendants can confront and question witnesses against them and present evidence on their own behalf. However, the judicial system is plagued by a large backlog of cases, and delays reportedly can last as long as 2 years. To reduce the backlog, the Government continued the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system and published a report in October 1999 proposing modifications in the system to facilitate case flow management including the disposition of cases within 16 months of initial filing.

Despite these measures to improve efficiency, complaints persist 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 lack experience regarding Bahamian

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.

The final appeals court recently ruled that death-row inmates appealing their sentences must be given the chance to be heard by bodies such as the United Nations Human Rights Committee and the Inter-American Commission on Human Rights.

There were no reports of political prisoners.

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

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

*a. Freedom of Speech and Press.*—The Government respects the constitutional provision for the right of free expression, and the political opposition criticizes the Government freely and frequently.

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

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

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. Groups must obtain permits to hold public demonstrations, and the authorities generally grant such permits.

The Constitution provides for freedom of association, and the Government respects this right in practice. The law permits private associations.

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

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

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

There is no legislation governing the processing of asylum seekers, and applications for political asylum are supposed to be adjudicated on a case-by-case basis at the cabinet level. Trained immigration officials screen asylum applicants, and the UNHCR reviews the interview records and offers advice on certain cases. Local and international human rights observers have criticized the Government for failing to screen potential asylum applicants adequately. These organizations have claimed that some Cubans and Haitians with a legitimate fear of persecution were repatriated without first having the opportunity to make a claim for asylum. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement. The Government signed a repatriation agreement with Cuba in 1998.

At year's end, a total of 5,801 persons, including 4,897 Haitians, 374 Jamaicans, and 284 Cubans had been repatriated. Two Nigerian nationals requested asylum during the year. The Government granted one request and denied the other. A total of 39 Cubans requested asylum. All 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 exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The Bahamas is a constitutional, parliamentary democracy with two major political parties and 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 Free National Movement and the opposition Progressive Liberal Party (PLP). The PLP led the country for 6 years of internal self-government from 1967 to 1973 and held power from independence in 1973 until 1992. The FNM won general elections in 1992 and 1997. It holds 35 of 40 seats in the House of Assembly, and the PLP holds 4. The Coalition for Democratic Reform (a splinter party from the PLP) holds one seat. 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 are no legal impediments to participation by women in government and politics; however, women are underrepresented. The 40-seat House of Assembly has 6 elected female members, including the Speaker of the House, and 6 appointed female Senators, including the government leader in the Senate. The Minister of Foreign Affairs, Janet Bostwick, also directs the Bahamian Bureau of Women's Affairs. Women also head the Ministry of Education and the Ministry of Commerce, Agriculture, and Industry. The Chief Justice of the Supreme Court is a woman.

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

Individual human rights monitors and several local human rights groups, as well as representatives of international human rights organizations, operate freely, expressing their opinions and reporting their findings on alleged human rights violations without government restriction. The Government allows them broad access to institutions and individuals.

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

The Government generally respects 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 contain certain provisions that discriminate against women.

*Women.*—Violence against women continues to be a serious, widespread problem. Government crime statistics do not separate domestic violence from other incidents of violence. The Government operates a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Government and private women's organizations conduct public awareness campaigns highlighting the problems of abuse and domestic violence. On November 16, the Department of Social Services in partnership with a private company established, for the first time, two safe houses to assist battered women. The Domestic Court, which deals exclusively with family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite 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. While police training includes some presentations on domestic violence, law enforcement authorities admit that the problem has not been a top priority in training or resource allocation.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. Additionally the law makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favor men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continue to push for an amendment to the Constitution and related laws to redress this situation.

Women participate fully in society and are well represented in the business and professional sectors.

*Children.*—The Government places a priority on maintaining adequate expenditures for child welfare and education. Public education is compulsory for children through the age of 16.

Awareness of parenting and responsibility for children has increased. However, child abuse and neglect remain serious problems. There were a total of 147 cases of child abuse during the year: 33 cases of physical abuse, 94 cases of sexual abuse, 9 cases of neglect, 4 cases of emotional abuse, and 7 cases of abandonment.

The law requires that all persons who have contact with a child they believe to be abused sexually report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurs quite frequently. The police refer 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.

*People with Disabilities.*—The Government has constructed additional housing units in Nassau designed specifically for the disabled, but very few buildings and public facilities are accessible to the disabled. Although the 1973 National Building Code mandates certain accommodations for the physically disabled in new public buildings, the authorities rarely enforce this requirement. The code also fails to mandate accommodations in new private buildings, which often lack accessibility as well. Advocates for the disabled complain of widespread job discrimination and general apathy on the part of private employers and political leaders toward their need for training and equal opportunity. They note that there is no overarching legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance works with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations that offer services for the disabled, to provide a coordinated public and private sector approach to the needs of the disabled. A mix of government and private residential and nonresidential institutions provides a range of education, training, counseling, and job placement services for both physically and mentally disabled adults and children. There is still no disability act; a government-sponsored task force drafted proposed legislation; however, it had not been introduced in Parliament at year's end.

*National/Racial/Ethnic Minorities.*—Unofficial estimates suggest that between 20 and 25 percent of the country's roughly 290,000 inhabitants 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 reside in the Bahamas legally, some observers believe that similarly large numbers are in the country illegally.

Although Haitians and Bahamians of Haitian descent generally are well integrated into society, interethnic tensions and inequities persist. Recent crime statistics show Haitians as targets for petty theft crimes. Some members of the Haitian community complain of discrimination in the job market, and resentment of continued Haitian immigration is widespread. However, reports of ethnic violence or blatant discrimination against legally resident Haitians are scarce. Leaders of the Haitian community approve of the Government's humane approach to the repatriation of illegal migrants and point to the high number of ethnic Haitians in the public service.

#### *Section 6. Worker Rights*

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

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

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Unions threatened several work stoppages against both public and private employers during the year. In order to resolve trade disputes more quickly, in 1996 Parliament amended the Industrial Relations Act to establish an industrial tribunal. According to the act, labor disputes first are filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross-examination. The tribunal's decision is final and can only be appealed in court on a strict question of law. Some employers complain that the industrial tribunal is 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 exercise their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiate wage rates without government interference.

The Constitution and the Industrial Relations Act 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 enforces labor laws and regulations uniformly throughout the country.

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 assert that the Port Authority has allowed the Hong Kong-based company Hutchinson-Whampoa, which now owns the harbor, airport, and many major hotels in Freeport, to discourage unions.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor by all persons, including children, and such labor does 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 is no legal minimum age for employment in other sectors, and some children work part time in light industry and service jobs. The constitutional prohibition of forced and compulsory labor, including that by children, is respected in practice (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Fair Labor Standards Act permits the creation of a Wages Council to recommend the setting of a minimum wage, but the Government never has established such a council or a general minimum wage. However, in July the Government established a specific minimum wage of \$4.66 (B\$4.66) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, this wage alone would not provide more than a subsistence living for a worker and family. The act limits the regular workweek to 48 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, responsible for enforcing labor laws, has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, but inspections occur infrequently. The Ministry normally announces inspection visits in advance, and employers generally cooperate 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 absent 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.

## BARBADOS

Barbados is a constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. The Queen is head of state and is represented by an appointed Governor General. Prime Minister Owen Arthur is the head of government and governs with an appointed cabinet. The judiciary is independent.

The Royal Barbados Police Force is charged with maintaining public order. The small volunteer Barbados Defence Force (BDF) is responsible for national security and can be employed to maintain public order in times of crisis, emergency, or other specific need. Police committed some human rights abuses.

The economy is based on tourism, services, light manufacturing, and agriculture, which makes it vulnerable to external economic developments. Per capita gross domestic product (GDP) was about \$9,323 in 1999. The country has registered 7 successive years of sustained economic growth. For the first quarter of the year, GDP grew at 4.6 percent.

The Government generally respects constitutional provisions regarding human rights; however, there were problems in a few areas. There were three extrajudicial

killings by police. Other principal human rights problems continued to be occasional instances of excessive use of force by police and societal violence against women and children. There was an upsurge in spousal abuse during the year.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings. However, police committed three extrajudicial killings. In all cases, the police conducted investigations that found no wrongdoing on the part of the police officers.

On February 6, police shot and killed a suspect, Curtis Maynard, who they said was armed and attempted to flee. However, local residents mounted a demonstration and asserted that Maynard was never known to carry weapons and that, since he was surrounded by police, they should have captured him without gunfire.

On February 21, police shot and killed Kerwin Wilkinson when they responded to a report of a domestic dispute. The police said he resisted and brandished a machete; his girlfriend claimed that he was not holding the machete when police shot him.

On March 3, police shot and killed Tony Greenidge, an emotionally disturbed worker, who had slashed to death an elderly person. Greenidge then attacked a responding police officer, and another police officer shot and killed him.

*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 cruel, inhuman, or degrading treatment or punishment; however, credible reports continued that law enforcement officials sometimes used force during detention to extract confessions from detainees.

In February a defendant accused and later convicted of child molestation alleged that the police slapped him, choked him, and denied him access to legal representation, and that due to this treatment, he signed a written confession. Also in February, another defendant alleged that his statement made in a deposition had been altered after the fact by police.

In September the Police Commissioner promised to investigate the alleged beating of a prisoner being held by police on a marijuana charge after his mother stated on a radio program that the police had mistreated her son brutally.

In December 1998, the police took two foreign citizens into custody for questioning in connection with a bank burglary. According to eyewitnesses, both individuals were in good health when the police apprehended them. However, 2 days later, the police took both men to the local hospital following complaints of abdominal pain. One man had to undergo extensive emergency surgery for life-threatening internal bleeding; doctors treated the second man for injuries to the abdomen and groin. Both men asserted that they were restrained physically and beaten by five or six men while in police custody. The police force's Criminal Investigation Department conducted an investigation and presented a report to the Director of Public Prosecutions in February 1999. The authorities filed charges against five police officers and started trial proceedings; however, at year's end, the case was unresolved and remained before the courts.

The majority of complaints against the police fall into the categories of unprofessional conduct and beating or assault. While the police force has a complaints and discipline department headed by a superintendent to deal with matters of inappropriate police conduct, there is no independent body to review complaints against the police. However, in December 1998, the Attorney General instituted a working group to make recommendations regarding the establishment of an independent complaints authority. In February the group presented its report to the Cabinet, and its recommendations were expected to be submitted to Parliament for further consideration.

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 adhere to these basic principles, although officials occasionally used excessive force.

The authorities issued firearms to special foot patrols in highcrime areas in response to public concern over violent incidents that had led to recent public concern. Aside from this exception, the police force mainly still is unarmed, in keeping with its British traditions. In February the police established a special task force unit

to address illegal weapons and crimes involving firearms. They also announced creation of a joint unit with the BDF to target high-profile crimes.

The only prison is antiquated and overcrowded, with over 625 inmates in a structure built for 350 inmates. The Caribbean Human Rights Network has called for reform of the penal system and advocates the development of alternatives to imprisonment such as community service to alleviate the problem of severe overcrowding. During the year, government officials took steps to introduce alternative, noncustodial sentencing.

The Government allows 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 respects these provisions in practice. Criminal defendants have the right to counsel, and attorneys have ready access to their clients.

The authorities do not use forced exile as a punishment or means of political control.

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

The judiciary includes the Supreme Court, which consists of the high court and court of appeal. The Governor General, on 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 respects 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.

In February Parliament approved a package of new legislation intended to strengthen the powers of law enforcement officials. One of the new laws allows the Director of Public Prosecutions to appeal sentences in criminal cases that he considers too lenient.

The Government provides free legal aid to the indigent with the exception of a limit of about \$2,150 (1,300 pounds sterling) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates have challenged this limit and are suing the Government on the grounds that it effectively deprives them of their right to due process.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched.

The Government does not interfere routinely in the private lives of its citizens; however, the police sometimes resorted to searches of homes without warrants. The Government does not censor mail. However, the Government restricts the receipt of foreign publications deemed to be pornographic. Other foreign publications of a non-prurient nature are allowed without restriction.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities respect these rights in practice. There are two independent daily newspapers, both of which present opposition political views. The Government regularly comes under criticism in the newspapers and on daily call-in radio programs. There are six radio stations, two of which are owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) is government owned. Although CBC is a state enterprise, it regularly reported views opposing government policies. Critics allege that the Government sometimes uses its influence to discourage media reporting on sensitive issues, but the press remained vigorously critical of the Government on a broad span of issues. The Government prohibits the production of pornographic materials.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government respects this right in practice. Political parties, trade unions, and private organizations function and hold meetings and rallies generally without hindrance. The Public Order Act of 1970 requires police approval for public assemblies, and previously it had been enforced rarely. However, in February the authorities dispersed a protest march about the Maynard killing by police (see Section 1.c.) because no permit had been obtained. Permission later was granted for a demonstration held a few days afterwards.

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

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—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, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status. However, government practice remains undefined.

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

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

Although underrepresented overall, women participate in all levels of government and politics. There are three female members of Parliament; the Deputy Prime Minister, who also serves concurrently as Foreign Minister, is a woman, as is the Minister of Education.

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

Local groups involved with human rights operate freely and without government hindrance. The Caribbean Human Rights Network, a Caribbean-wide human rights organization which has its headquarters and a small staff in Barbados, investigates and reports on allegations of human rights violations throughout the region.

The Ombudsman's office, established in 1987, hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The office is prohibited from involvement in issues involving foreign affairs, immigration questions, and certain other matters. Because it focuses only on administrative conduct, it does not deal with complaints of police abuse; a separate department within the police force deals with matters of inappropriate police conduct.

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

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

*Women.*—Violence and abuse against women continued to be significant social problems. Women's rights groups reported that victims of sexual assaults, domestic violence, incest, and rape are often reluctant to report such incidents. There are public and private counseling services for victims of domestic violence, rape, and child abuse. There was an upsurge in spousal abuse during the year.

The 1992 Domestic Violence Law specifies the appropriate police response to domestic violence, which 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 are the same, regardless of the sex of the offender or the victim. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issue. The courts can sentence an offender to jail for breaching such an order. Human rights monitors criticized an inconsistency in sentencing for rape, incest, and statutory rape. They noted that the lack of sentencing guidelines resulted in longer sentences for persons convicted of petty theft than for incest; and lesser sentences for incest than for rape or sexual assault of nonfamily members.

Women actively participate in all aspects of national life and are well-represented at all levels of both the public and private sectors. They form a large percentage of heads of household and are not discriminated against in public housing or other social welfare programs.

The National Organization of Women (NOW) is an affiliate of a regional women's organization called the Caribbean Women's Association. The Business and Professional Women's club, an affiliate of the NOW, runs a crisis center staffed by 30 trained counselors and provides legal and medical referral services. The center also

has a hot line for clients who wish to maintain their anonymity. The Government established a battered women's shelter, which opened in September 1999.

In August Minister of Labor Greenidge told a labor meeting that he supported strong legislation aimed at preventing sexual harassment in the workplace.

Children born overseas and out of wedlock to Barbadian men are considered citizens. However, Barbadian women married to non-Barbadian men were unable to confer citizenship on the child, until an act of Parliament took effect on August 16. Now a child born to a male or a female citizen has immediate citizenship.

*Children.*—The Government provides for compulsory education to the age of 16. The national health insurance program provides children with free medical and dental services for most medical conditions. The Government is committed to children's human rights and welfare, although violence and abuse against children remain serious problems. The Child Care Board is responsible for monitoring and responding to the critical welfare needs, interests, and rights of children. Statistics from the Child Care Board show that approximately 1,000 children suffered abuse in 1998-99.

*People with Disabilities.*—The law does not prohibit discrimination against the physically disabled in employment, education, or the provision of other state services. However, in 1997 the Ministry of Labor established the Disabilities Unit to address the concerns of the disabled, and in early 1998 it created an advisory committee on disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, long has advocated the introduction of legislation prohibiting discrimination. In May the Government, labor leaders, and the private sector jointly announced an agreement to promote a code of practice on the employment of persons with disabilities, as part of these groups' continuing social partnership. They also agreed to establish targets and time frames for the employment of disabled persons in the private and public sectors.

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

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers freely exercise their right to form and belong to trade unions and to strike. Approximately 30 percent of the labor force belongs to trade unions. Overall union membership appears to have declined slightly in recent years as some workers moved to better-paying positions in higher-technology sectors. There are two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, is independent of any political party or the Government. Some officers of the largest union, the Barbados Workers' Union, are associated personally with the Democratic Labour Party. Most unions belong to the Congress of Trade Unions and Staff Associations, which was founded in 1995.

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.

In July the nonunion Barbados Police Association supported the police in a labor action over unfulfilled promises of increased wages and increased allowances. This action followed an October 1999 "sick-out" over the same issues. The police took action because they did not receive promised wage increases and increased allowances. For several years, the Government has been reviewing wage and pay scales of all public service employees, including the police. Police said that they are entitled to special consideration since they are not allowed to be represented by a trade union because of their domestic security function. The police labor action took place in July during the height of the local Carnival period. As the action proceeded, members of the BDF were called in to supplement those police who reported for work. As of year's end, the issues had not been resolved and were still under consideration.

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

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the authorities respect it in practice. Normally, wages and working conditions are negotiated through the collective bargaining process, but a 1993 tripartite prices and incomes policy accord established a 2-year wage freeze. A revised (second) protocol contained provisions for negotiated

increases in basic wages and increases based on productivity, which covered 1995-97. In May 1998, the tripartite partners signed a third protocol covering 1998-2000, broadened to address the needs of disabled workers and to express support for international efforts against child labor.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most do so when a significant percentage of their employees express a desire to be represented by a registered union. Several foreign-owned international data-processing companies challenged union claims in 1997-98 to represent their workforces, highlighting the country's need for legislation outlining the union recognition process. While there is no specific law that prohibits discrimination against union activity, the courts provide a method of redress for employees who allege wrongful dismissal. The courts commonly award monetary compensation but rarely order reemployment. New legislation that would address the union recognition process had been pending for about 2 years at year's end.

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

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced, compulsory, or bonded labor, including that by children, and there were no reports of its use.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum working age of 16 is observed broadly. Compulsory primary and secondary education policies, which require school attendance until age 16, reinforce minimum age requirements. The Labor Department has a small cadre of labor inspectors who conduct spot investigations of enterprises and check records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. The law prohibits forced or bonded labor by children, and the authorities effectively enforce it (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets 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 are entitled to a minimum wage of about \$0.75 (bds\$1.50) per hour, although in actual labor market conditions, the prevailing wage is triple that amount. There are two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants was raised by 13 percent in June 1997, to \$2.13 (bds\$4.25) per hour; the juvenile minimum wage for shop assistants became \$1.62 (bds\$3.25) per hour. The minimum wage for shop assistants is marginally sufficient to enable a worker and family to meet minimum living standards; most employees earn more.

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

The Factories Act of 1983 sets out the officially recognized occupational safety and health standards. The Labor Department enforces health and safety standards and follows up to ensure that problems cited are corrected by management. The Factories Act also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee can challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identify safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. Government-operated corporations in particular were accused of doing a "poor job" in health and safety. The Government has promised to undertake inspections of government-operated corporations and manufacturing plants as a priority. Workers have 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. There were no reports that persons were trafficked to, from, within, or through the country.

## BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly govern the country. The Governor General represents Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa's People's United Party (PUP) holds 26 of the 29 seats in the House of Representatives. The Government generally respects the constitutional provisions for an independent judiciary; however, at times the judiciary is subject to political influence.

The Police Department has primary responsibility for law enforcement and maintenance of order. The Belize Defense Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Both the police and the BDF report to the Minister of National Security and are responsible to and controlled by civilian authorities. There were reports of abuse by the police.

The economy is primarily agricultural, although tourism has become the principal source of foreign exchange earnings. The agricultural sector is heavily dependent upon preferential access to export markets for sugar and for bananas. The Government favors free enterprise and generally encourages investment, although domestic investors are given preferential treatment over foreign investors in a number of key economic sectors. Preliminary estimates of annual gross domestic product growth placed it at 6.2 percent in real terms. Annual per capita income was \$2,771.

The Government generally respected many of its citizens' human rights; however, there were problems in several areas. Principal human rights abuses include several extrajudicial killings, occasional brutality and use of excessive force by the police when making arrests, poor prison conditions, allegations of arbitrary arrest and detention, lengthy pretrial detention, political influence on the judiciary, and judicial limits on freedom of the press. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented foreign workers also were problems. There were instances of trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no political killings by the security forces; however, there were three instances of extrajudicial killing.

On January 24, six BDF soldiers shot and killed Samuel Ramirez, a Guatemalan farmer, near the border between the two countries. A public Commission of Inquiry ruled that Ramirez had attacked the soldiers and that the killing was justifiable.

On February 24, an off-duty police officer with a machete chased Kelvin "Brambles" Barrow into the sea, where Barrow drowned. The Ombudsman presented a report to the National Assembly, and the case was before the Department of the Public Prosecutor (DPP) at year's end.

On March 17, Hattieville prison inmates rioted. During the riot, a guard shot and killed one inmate. The Ombudsman's investigation revealed that the officer was delinquent, and the matter was before the DPP at year's end.

In September 1999, 38-year-old Daniel Tillett died while in police custody, after being arrested for fighting in public. On February 14, the Director of Public Prosecutions issued instructions to the Police Commission to proceed to indictment of the officer-in-charge, Jesus Cantun. At year's end, he was in jail awaiting trial.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or other inhuman punishment; however, the police occasionally used excessive force when making arrests. The Government's Ombudsman stated that the second and third most common complaints that his office receives involve police misconduct and brutality and misconduct on the part of Department of Corrections personnel. The Ombudsman estimated that at year's end, his office would have approximately 10 pending cases of this type.

The Police Department's internal affairs and discipline section, the Director of Public Prosecutions, the Ombudsman's office, and on occasion, special independent commissions appointed by the Prime Minister, investigate allegations of abuse by officials. When the Internal Affairs Division was established in 1995, it received 50 complaints against police officers; in 1999, the number had increased to 299. The increase may reflect an increase in abuse by officials as well as an increase in the public's willingness to report such abuses.

On February 14, a police officer shot and wounded a BDF soldier in Orange Walk Town. Witnesses claimed that the two men were involved in a verbal altercation.

When the soldier pulled his machete, the police officer drew his firearm and shot the soldier in the abdomen. The exiting bullet struck an innocent bystander. Both victims recovered from their wounds. The officer was arrested and suspended from the force; at year's end, the Ombudsman was investigating the incident.

On April 4, police shot escaped prisoner Darrel "Bagga" Jones. All investigations determined this to be a justified use of force.

On May 20, while on duty at the national agriculture and trade show, a police officer shot and wounded a man. Immediately prior to the shooting, the sergeant in charge ordered the officer not to shoot. The victim had been brandishing a piece of cardboard that had a dead snake glued to it. The authorities suspended the officer from duty, and the Ombudsman was conducting an investigation at year's end.

On August 27, two national team soccer players claimed that police beat them while they were handcuffed in Orange Walk Town. Police Commissioner Hughington Williams suspended the chief inspector for the district, James Magdaleno, and assistant inspector Eli Salazar, pending the outcome of the investigation. Williams also took disciplinary action against constables Roger Briceno, Mateo Carrillo, and A. Coc. The matter still was before the police internal affairs division at year's end.

In April 1999, two Guatemalan men, Hector Balcarcel and Ricardo Guzman, were detained at the Guatemala-Belize border. They were taken into police custody, allegedly detained for 5 days, and Balcarcel allegedly was tortured. Balcarcel's report to the Human Rights Commission and the Guatemalan embassy claimed that he was stripped, handcuffed, burned with a lighter and habanero peppers on his genitals, beaten with a stick, and forced to drink his own urine. After an internal investigation, the police determined that these allegations were false. An internal review of this investigation still was underway at year's end.

In June 1999, the authorities arrested a police constable and charged him with extortion and corruptly soliciting a reward. They relieved him of duty and put him on trial in the Supreme Court; the court found him guilty and sentenced him to pay a fine.

On March 16, two inmates at the Hattieville prison, Nehru Smith and Bert Elijos, were sentenced to receive corporal punishment in accordance with prison rules for assaulting and nearly killing another inmate. Smith and Elijos received 12 and 6 tamarind lashes respectively. The Minister of Prisons gave official support and approval for the floggings. On March 31, the newly reappointed prison governor stated that the floggings were necessary, but that while he was in charge, no other prisoners would be punished in that fashion.

On March 17, between 300 and 400 prisoners at Hattieville reacted to the floggings by rioting. During the riot, one prisoner was killed, and three were hospitalized with gunshot wounds (see Section 1.a.). The matter still was before the DPP at year's end.

On August 28, an inmate at the Hattieville correctional facility was given 12 lashes for stabbing a fellow inmate in the neck during an altercation over \$2 (bz\$4). A visiting judge sentenced the prisoner to the lashings following a hearing. The punishment was administered in accordance with prison rules, despite the new prison governor's earlier vow that floggings would not occur.

Prison conditions are poor. Conditions at the Hattieville Department of Corrections—the country's only prison—have deteriorated continually since it opened in 1993. Although designed to house 500 inmates, it houses 745 male inmates and 20 female inmates, resulting in approximately 6 inmates in each 6-by-9 foot cell. The majority of prison accommodations do not have showers or toilets. Instead, inmates are provided with 5-gallon buckets. The prison psychiatrist provides mental health services for inmates. There is no separate facility for inmates with mental illnesses. First-time offenders are housed in the same building as those who commit capital crimes. Noncitizens constitute approximately 15 to 20 percent of the prison population. There are rare reports of human rights abuses in the form of physical brutality by prison wardens. Incidents of gang- and drug-related violence in the prison are on the rise. Frequent prison breaks, confiscation of weapons, and reports of beatings have occurred throughout the prison's history. Prison authorities estimated that they confiscated more than 1,500 deadly weapons by year's end. The authorities reported that there were 53 prison escapes during the year; all but 3 escapees were captured by year's end.

The prison includes a separate facility for women.

The Government took steps to curb recidivism and focus on rehabilitation. The Youth Enhancement Agency (YEA) houses over 60 youths between the ages of 13 and 25, who participate in rehabilitation and job training programs. Prison authorities provided training for inmates in basic skilled trades such as carpentry. Increasingly, youthful offenders are transferred from the main prison to the YEA facilities.

A job-training program at a citrus farm employs 44 inmates. There is a timeoff program for good behavior.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government observes these provisions to a degree; however, there were occasional accusations of arbitrary arrest and detention.

The law requires the police to inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a court to be charged formally within 72 hours. In practice the authorities normally inform detainees immediately of the charges against them. Bail is granted in all but the most serious cases. In cases involving narcotics, the police cannot grant bail, but a magistrate's court may do so after a full hearing. There are persistent allegations that security forces hold detainees for 72 hours and release them, but upon release, arrest them again. In May the newly appointed Supreme Court Chief Justice published and promulgated "The Judges' Rules," which outline a code of conduct to which police officers must adhere when dealing with arrested persons. Many detainees cannot afford bail, and backlogs in the docket often cause considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged incarceration before trial.

The Constitution forbids exile, and it does not occur in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, at times the judiciary is subject to political influence. The appearance of judicial independence from the executive branch is compromised because some foreign judges and the Director of Public Prosecutions must negotiate renewal of their contracts with the Government and thus may be vulnerable to political interference. In February the Government appointed a new Supreme Court Chief Justice, Abdullai Conteh, a jurist from Sierra Leone.

The judiciary consists of the magistrate's courts, the Supreme Court, the Court of Appeals, and a family court that handles cases of child abuse, domestic violence, and child support. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeals. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom.

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. Legal counsel for indigent defendants is provided by the State only for capital crimes. In April 1999, the Government appointed an attorney to the Legal Aid Center to improve and strengthen legal aid services to the public. The judicial system is constrained by a severe lack of trained personnel, and police officers often act as prosecutors in the magistrate's courts.

Trial by jury is mandatory in capital cases.

A Political Reform Commission recommended that the family court be placed at the same level as the magistrate's courts, a recommendation that the Government adopted. However, trials in cases that come before the family court generally are private. The convicted party in family court may appeal to the Supreme Court. Defendants have the right to be present at their trial unless the opposing party fears for his or her safety. In such a case, the court grants interim provisions under which both parties are addressed individually during a 5day period.

There are lengthy trial backlogs in the judicial system. One factor commonly cited is the low pay offered to judges, resulting in high turnover rates. In addition an inordinate number of significant narcotics-related cases are taking years to resolve. In these cases, defendants often are released on minimal bail payments. In April 1999, two retired judges were named to the Supreme Court in a temporary capacity to help reduce backlogs. At year's end, only three justices served on the Supreme Court, instead of the full complement of five.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violators are subject to legal action. However, there were several cases in which the previous government exercised its power under the right of eminent domain in an arbitrary manner. Such cases take years to resolve in the courts.

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

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press but also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or pub-

lic health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is 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 is presented publicly, usually without government interference, in seven privately owned weekly newspapers, three of which are affiliated directly with major political parties. There is no daily press. All newspapers are subject to the constraints of libel laws.

There are a range of privately owned commercial radio stations. In addition to these local stations, there are two British military stations that broadcast news directly from London. Popular radio call-in programs are lively and feature open criticism of and comments on government and political matters.

There are eight privately owned television broadcasting stations, including several cable networks in Belize City and the major towns. The Government's Belize Information Service issues press releases and maintains an Internet web site. Two independent television stations produce local news and feature programs. The Belize Broadcasting Authority regulates broadcasting and asserts its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts.

The law provides for academic freedom, and the Government respects it in practice.

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

The Constitution permits citizens to form and join associations of their choosing, both political and nonpolitical, and the Government respects these provisions in practice.

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

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

The law provides for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. The Government's Refugee Department officially closed on December 31, 1999. Since then, the UNHCR has relied upon a local nongovernmental organization (NGO) to monitor the status of asylees and to represent its interests. There were 12 refugees receiving UNHCR assistance and awaiting the opportunity to apply for asylum in the country. Most are African, originating from Nigeria or Sierra Leone.

The previous administration appointed members to an eligibility committee to review applications for asylum. The committee, which included a UNHCR representative, met on a weekly basis. In 1998 the Government turned down 30 requests for asylum. The Government has not established an eligibility committee since the change of administration in 1998. The Government has not accepted applications and no mechanism exists to adjudicate asylum requests. There is no legislation that formalizes the asylum process. The Government last honored the principle of first asylum in the case of four persons in 1995.

In the wake of the civil conflicts in Central America in the 1980's, over 40,000 predominantly Hispanic migrants came to Belize, many of them entering illegally and living without documentation. In May 1999, the Government instituted a 6-week amnesty initiative whereby undocumented migrants were eligible to obtain legal residency, provided: They had lived in Belize continuously for 4 years, married a Belizean citizen or had a stable common-law association, had Belizean children, or, if female, were at least 4 months pregnant. The amnesty is expected to benefit about 5,000 UNHCR-registered asylees, as well as 13,000 others. Officials continued processing amnesty applications during the year.

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

Belize is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections every 5 years. The Government changed hands in August 1998

when the PUP won 26 of 29 seats in the House of Representatives in free and fair elections.

All elections are held by secret ballot, and suffrage is universal for citizens 18 years of age and older. National political parties include the People's United Party, the United Democratic Party (UDP), and the National Alliance for Belizean Rights (NABR). The country's ethnic diversity is reflected in each party's membership.

No laws impede participation of women in politics; however, they are somewhat underrepresented in electoral politics due to both tradition and socioeconomic factors. Voters elected 2 women to the 29-seat House of Representatives, and the Speaker of the House and the President of the Senate, both appointed, are women. Women also hold a number of other appointive offices, including four of nine senate seats, one cabinet position, and three are permanent secretaries in ministries. The Chief Elections Officer is also a woman.

There are no laws impeding participation by indigenous people or minority groups in politics. There are Mestizo, Creole, Maya, and Garifuna representatives in Parliament.

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

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

International human rights groups operate freely as well. Government officials generally are cooperative and responsive to their activities.

The Government's Ombudsman, a position created in 1999, stated that his office receives an average of two to three complaints of human rights violations per week. The second and third most common complaints his office receives involve police misconduct and brutality and misconduct on the part of Department of Corrections' personnel. The Ombudsman estimated that at year's end, his office would have approximately 10 pending cases of this type.

In his first annual report, the Ombudsman highlighted three primary concerns: unprofessional police behavior; lack of response by public officials to the Ombudsman's formal inquiries; and public officials' lack of knowledge regarding provisions of the Ombudsman Act. The report stated that the office had received 213 formal complaints (about all types of perceived abuse by government agencies) in its first 7 months of existence; of which the 3-person office had resolved 134 cases.

On May 9, the Office of the Ombudsman and the HRCB signed a memorandum of understanding coordinating efforts to curb human rights abuses.

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

The country is multiracial and multiethnic, and the Government actively promotes tolerance and cross-cultural understanding. Discrimination on ethnic or religious grounds is illegal and rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continues to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations include fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services.

*Women.*—Violence against women is a problem. Based on reported cases, the Ministry of Human Development, Women, and Civil Society estimated that there were about 1,000 domestic violence cases during the year. A shelter for battered women offers short-term housing. The Belize Organization for Women and Development, an NGO, advises women on their rights and provides counseling. Laws prohibit rape and sexual harassment, but few offenders are charged and convicted. In October 1999, an expanded criminal code outlawed marital rape. Shortly thereafter, the Police Department created a police family violence unit in order to combat spousal abuse.

Despite constitutional provisions for equality, women face social and economic prejudice. Women find it more difficult than men to obtain business and agricultural financing and other resources. Most employed women are concentrated in female-dominated occupations with traditionally low status and wages. The Women's Bureau in the Ministry of Human Development, Women, and Civil Society is charged with developing programs to improve the status of women. That Ministry estimated

that women would receive 35 percent of all small business loans during the year. A number of officially registered women's groups work closely with various government ministries in promoting social awareness programs. Women have access to education and are active in all spheres of national life, but relatively few hold top managerial positions. However, women head the Belize Business Bureau, Belize Chamber of Commerce and Industry, Belize Citrus Growers Association, several prominent environmental NGO's, and the Belize Rotary Club. The law mandates equal pay for equal work, but female workers often earn less than men in similar jobs. There are no legal impediments to women owning or managing land or other real property.

There were reports that women have been trafficked for purposes of prostitution (see Sections 6.c. and 6.f.).

*Children.*—Education is compulsory for children between the ages of 5 and 15. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs have room for only about one-half of the children finishing primary school; competition for spaces in secondary school is intense. Education is nominally free, but various school, book, and uniform fees place education out of reach for many poor children.

The Family Services Division in the Ministry of Human Development, Women, and Civil Society is devoted primarily to children's issues. The division coordinates programs for children who are victims of domestic violence, advocates remedies in specific cases before the family court, conducts public education campaigns, investigates cases of trafficking in children (see Section 6.f.), and works with NGO's and UNICEF to promote children's welfare. The National Committee for Families and Children includes a representative from the Ministry of Human Development, Women, and Civil Society.

Child abuse is not considered to be widespread or a societal problem. In 1998 Parliament passed the Families and Children Act, and in 1999 the National Organization for the Prevention of Child Abuse (NOPCA) published a handbook for the public that outlined in plain language provisions of the law. The law allows authorities to remove a child legally from an abusive home environment, removes the limit placed on child support that a parent must pay, and allows men to file for support, as well as women. It requires parents to maintain and support a child until he or she reaches the age of 18, compared with the previous law's mandate of support up to the age of 16. The law also accepts DNA testing as legal proof of paternity and maternity. It requires that all adoptions be reported to the Human Development Department of the Ministry of Human Development, Women, and Civil Society, and that prospective parents be screened before they may adopt a child. The NOPCA instituted a nationwide telephone help line to encourage discourse and reduce abuse.

There were some reports that children were trafficked for the purpose of forced prostitution (see Sections 6.c. and 6.f.).

*People with Disabilities.*—The law does not provide specifically for accessibility for disabled persons or prohibit job discrimination against them. The Government's Disability Services Unit, as well as a number of NGO's, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provide assistance to physically disabled persons. Disabled children have access to government special education facilities, although the requirements to enter such programs are strict.

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

On October 12, the Government and the Mayan People of Southern Belize signed a collective agreement to address the grievances set forth in a petition by Mayan community leaders in the summer of 1998.

*Section 6. Worker Rights*

*a. The Right of Association.*—By law and in practice, workers generally are free to establish and join trade unions. Eleven independent unions, whose members constitute approximately 11 percent of the labor force, represent a cross-section of white-collar, blue-collar, and professional workers, including most civil service employees. However, several of these unions are inactive. The Ministry of Industry, Commerce, Public Services, and Labor recognizes unions after they file with the Registrar's Office. The law empowers members to draft the bylaws and the constitutions of their unions, and they are free to elect officers from among the membership at large. Unions that choose not to hold elections may act as representatives for their membership, but the national Trade Union Congress permits only unions that hold free and annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law permits unions to strike and does not require them to give notice before going on strike.

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

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

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

The Constitution prohibits antiunion discrimination both before and after a union is registered. Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent. For example, although the registered Banana Workers Union actively advocated worker rights, it was not recognized by the banana industry's growers association due to low membership. Some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress is extremely difficult to obtain in such situations. Technically, a worker can file a complaint with the Labor Department, but in practice it is virtually impossible to prove that a termination was due to union activity.

The Labor Code applies in the country's export processing zones (EPZ's). There are no unions in the EPZ's, reflecting the general weakness of organized labor in the country.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and laws forbid forced, compulsory or bonded labor, including that performed by children, and generally it is not known to occur; however, there were reports that women were trafficked and infrequent reports that children also were trafficked for the purpose of forced prostitution (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. The minimum age for employment is 17 years for work near hazardous machinery. Inspectors from the Departments of Labor and Education enforce this regulation. During the year, truancy officers, who historically have borne the brunt of the enforcement burden, were more active. The law requires children between the ages of 5 and 15 to attend school, but there are many truants and dropouts. According to the Central Statistics Office, in the 1990's, 46 percent of children did not complete primary school, and 10 percent of those children never enrolled in school at all. On March 21, the Government ratified International Labor Organization Convention No. 182 on the worst forms of child labor.

Laws prohibit forced and bonded labor by children, and in general the Government effectively enforces this prohibition; however, there were infrequent reports of trafficking in children for purposes of prostitution (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The minimum wage is \$1.12 (bz\$2.25), except in export industries, where it is \$1.00 (bz\$2.00) per hour. For domestic workers in private households and shop assistants in stores where liquor is not consumed, the rate is \$0.87 (bz\$1.75) per hour. The minimum wage law does not cover workers paid on a piecework basis. The Ministry of Industry, Commerce, Public Services, and Labor is charged with enforcing the legal minimum wage, which generally is

respected in practice. The minimum wage as sole source of income does not provide a decent standard of living for a worker and family. Most salaried workers receive more than the minimum wage.

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

The exploitation of undocumented Guatemalan, Honduran, and Salvadoran workers, particularly young service workers and possibly some agricultural workers, continued to be a problem. Banana farm owners slowly are moving the housing they provide for their workers away from the fields where poisonous pesticides are sprayed. Health clinics in the region report that the most frequently treated ailments are pesticide-related skin conditions. Company-provided housing often lacks electricity and water. The Government, the HRCB, and other concerned citizens all focus on this problem; however, since turnover rates of banana workers are so high, organizing this segment of the work force is difficult.

A patchwork of health and safety regulations covers numerous industries, and the Labor Department in the Ministry of Industry, Commerce, Public Services, and Labor enforces these regulations to varying degrees. Enforcement is not universal, and the ministries commit their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints have been registered. Workers have the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does proscribe procurement for the purpose of prostitution. Nonetheless, one dance hall owner reportedly recruited women from Guatemala, Honduras, and El Salvador to work as prostitutes by promising them jobs as dancers, waitresses, or domestics. Upon arrival, the employer allegedly takes their passports, forces them to engage in prostitution, and holds their wages. The police have investigated, but had not made any arrests by year's end, nor had the Government taken any other steps to address this practice.

The Ministry of Human Development, Women, and Civil Society, the police department, and—in cases involving migrant children—the Ministry of National Security and Immigration investigate and attempt to remedy cases that involve trafficking in children (see Section 5). According to a spokesperson from the Human Development Department, there were infrequent reports of trafficking in children for the purpose of prostitution; most involved migrant children.

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## BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. President Hugo Banzer Suarez of the Nationalist Democratic Action party took office in August 1997. The government coalition controls the Senate but only has a plurality of 57 out of 130 seats in the Chamber of Deputies. However, the coalition holds the leadership positions in both chambers. The executive and legislative branches suffer from corruption and inefficiency to some extent. The judiciary, while independent, also is corrupt and inefficient.

The National Police have primary responsibility for internal security, but military forces can be called upon for help in critical situations, and this occurred during the year. The police provided security for coca eradication work crews in the Chapare region. A special counternarcotics force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintain effective control over the security forces; however, some members of these forces committed human rights abuses.

Bolivia has extensive poverty, and many citizens lack access to such basic services as potable water, sewage, electricity, and primary health care. Per capita gross domestic product (GDP) is about \$1,087. According to the World Bank, between 1993 and 1999, approximately 67 percent of the population lived below the national poverty line. The country is rich in minerals and hydrocarbons, and extensive investments in petroleum deposits in the eastern and southern parts of the country are expected to form a basis for strong GDP growth in the future. However, most workers engage in traditional agriculture, and many citizens remain barely linked to the cash economy.

The Government generally respected the human rights of its citizens; however, problems remain in certain areas. Legal and institutional deficiencies prevented the full protection of citizens' rights. In April violent demonstrations and road blockages broke out in Cochabamba over a controversial municipal water project, and unrelated protests occurred across the country, leading to the deaths of protesters as well as members of the security forces; commerce was brought to a virtual halt. On April 8, President Banzer declared a state of siege, which Congress approved on April 13. The stage of siege ended on April 20. Nongovernmental human rights organizations criticized the state of siege and the killings, injuries, and preventive detentions that took place during it. Violent demonstrations and other confrontations due to an unrelated list of grievances against the Government also took place in September and October, and resulted in the deaths of up to 10 civilians, 4 security officials, and the spouse of 1 of the security officials. There were a number of allegations of torture. There were credible reports of abuses by police, including use of excessive force, petty theft, extortion, and improper arrests. Investigations of alleged official abuses were slow. Prison conditions are harsh and at times police arbitrarily arrested and detained persons. The most pervasive human rights abuse continued to be prolonged incarceration of detainees due to antiquated procedures and inefficiency and corruption in the judicial system. Other problems include infringements on citizens' privacy rights, government attempts to intimidate some news media, violence and discrimination against women, abuse of children, discrimination against and abuse of indigenous people, discrimination against Afro-Bolivians, child labor, inhuman working conditions in the mining industry, and trafficking in women.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings. However, security forces killed some protesters during violent demonstrations in April and September.

In April violent demonstrations and road blockages broke out in Cochabamba over a controversial municipal water project. These demonstrations, combined with unrelated protests across the country, brought commerce to a virtual halt. On April 8, President Banzer declared a state of siege. Under a state of siege, the President has the authority to forbid demonstrations that threaten the public order and detain persons who are suspected of plotting against the public order (see Section 1.d.). In the days that followed, there were violent clashes between security forces and demonstrators. It appears likely that at least three out of the four civilians killed during the April demonstration were killed by security forces. In addition, 1 army officer was killed, and over 50 persons were injured. The state of siege ended on April 20.

On October 10, the civilian justice system ordered 17 military officers and soldiers to testify or face arrest on charges in the death of a protester on April 8 in Cochabamba. The military officials did not testify and sought to have the case transferred to the military justice system at year's end. The Government agreed to pay all medical costs, as well as compensation up to \$1,575 (10,000 bolivianos), to those injured in the violent disturbances in April, September, and October, depending on the severity of the injury. In addition, the Government awarded up to \$2,362 (15,000 bolivianos) in compensation to the families of those killed in April and up to \$3,937 (25,000 bolivianos) to the families of those killed in September. At year's end, the Government was paying the medical costs and had compensated the families of those persons killed in April but had not yet compensated those injured in April, September, and October, nor paid compensation to the families of those killed in September.

The military justice case against alleged sharpshooter Captain Robinson Iriarte Lafuente, who was videotaped by television news organizations in civilian clothes kneeling alongside troops and firing a rifle during the disturbances in Cochabamba, was pending at year's end. On April 27, Captain Iriarte testified before the congressional Human Rights Committee that he fired shots in three different locations at walls and buildings to intimidate civilians who were rioting nearby. Iriarte claimed that each time he received permission from a superior officer at the scene. Armed Forces Commander Admiral Jorge Zabala earlier told the Congressional Human Rights Committee that, during the state of siege, soldiers only were authorized to fire live ammunition by order of their commander, and the 7th Division Commander, Brigadier General Jose Antonio Gil, testified that he gave no such order.

The Constitution provides for declaration of a state of siege, which the Congress must approve, and many administrations have utilized it. In August the Constitutional Tribunal affirmed the constitutionality of the state of siege. However, human

rights organizations criticized the state of siege and the resulting deaths, injuries, and detentions (see Section 1.d.).

Violent demonstrations and other confrontations, due to an unrelated list of grievances against the Government, also took place in September and October. Protesting groups ranged from illegal coca growers in the Chapare, indigenous farmers in the highlands, to urban and rural teachers' unions, to groups protesting a controversial municipal water project in Cochabamba. These demonstrations resulted in the deaths of up to 10 civilians, and approximately 180 civilians were injured. At least three of these deaths were not plausibly attributable to the security forces. The Government enjoined the security forces to act with restraint and to avoid head-to-head conflict with demonstrators, and their performances generally were in keeping with these orders, despite violent provocations (see Section 2.b.). In addition, four security officials and the spouse of one of them disappeared in the Chapare during the disturbances and later were found tortured and murdered. Another security official was missing and presumed dead at year's end.

The case of the November 1999 death of Miguel Angel continued to move slowly through the judicial system. Rivero Siles, a 17-year-old prisoner accused of murder, died due to severe burns suffered while he was held in a solitary confinement cell at San Sebastian prison in Cochabamba. Investigations into actions by police at the prison continued during the year. The authorities removed the prison governor, closed the solitary confinement cells, and replaced them with a regular jail cell that is used to punish prisoners for poor behavior by isolating them from the rest of the prison (see Section 1.c.).

The case of 18-year-old Marcelo Botelho, who police arrested in October 1999 in Santa Cruz and who died the next day in a hospital, was closed. Although there were allegations that the police had beaten Botelho, there were no eyewitness reports, and the Government did not pursue a case against the police.

On May 20, 1999, police arrested Peruvian businessman Carlos Freddy Cano Lopez, after he refused to pay a disputed taxi fare. Cano suffered third degree burns over 50 percent of his body when his cell mysteriously caught fire. The authorities transferred Cano to a hospital in Lima, Peru, where he died in June 1999. The authorities suspended the policemen in question and their judicial case was pending at year's end.

On January 13, the Government completed investigations and issued reports concerning the five unresolved cases of civilian deaths during the fatal confrontations between security forces and illegal coca growers in the Chapare in the spring of 1998. The reports were forwarded to the Cochabamba district attorney who recommended on February 1 that all five cases (plus two others) be closed. However, a judge in Villa Tunari decided to continue proceedings on three cases and following his decision allegedly received threats, which later apparently ceased. The three cases in question subsequently were transferred to a Superior Court in Cochabamba, which ruled that two of the cases should be closed and that one case, the death of Alberto Coca Cayo, should be sent back to the judge in Villa Tunari to continue proceedings. Military officers charged in the case petitioned for the case to be transferred to the military justice system. The case was transferred back to the superior court in Cochabamba, where the decision as to which jurisdiction would consider the case was pending at year's end.

After 2-years, the Government completed its investigations into the December 1996 events at Amayapampa and Capasirca that left nine civilians and one policeman dead in clashes between miners and security forces. The findings held five military officers responsible but absolved then-President Gonzalo Sanchez de Lozada and his ministers of any responsibility. The cases against the accused officers were pending in the military justice system at year's end; five officers were reassigned to nonoperational units pending the outcome of their legal cases. An attempt in Congress to censure Sanchez de Lozada and his ministers also was pending at year's end. The Government's delay in completing effective investigations and identifying and punishing those responsible for either civilian or security force deaths results in an atmosphere of impunity.

There was violence during the year against government security forces and coca eradication crews. On January 20, an unknown assailant shot and killed Joint Eradication Task Force (JTF) conscript Raul Almendras; police later arrested a coca grower as a suspect in the murder. On May 14, a government helicopter flying in support of eradication efforts was fired upon; one JTF soldier was wounded. The JTF in the Chapare was fired upon on August 2, and the Ecological Police, who provide security for the JTF, returned fire and wounded one of the assailants, who subsequently was arrested along with a companion. On August 18, there were two serious explosive incidents that injured a policeman and another government employee. One suspect subsequently was arrested. In separate booby trap blasts on October

11, a coca eradication soldier and a civilian were injured. On October 21, as the JTF near Puerto Zudanez was returning to base camp, it was fired upon. Two members of the JTF were killed and four were wounded. On November 13, the JTF column was ambushed while proceeding to eradicate coca in the Ismael Montes sector. One policeman, Abad Espinoza, was killed.

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

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

The case of Jose Carlos Trujillo Oroza drew renewed attention as the most prominent of the cases of those who disappeared during the 1971–78 de facto regime of President Hugo Banzer Suarez. Trujillo's mother presented the case to the Inter-American Court of Human Rights in June 1999. The security forces had detained Trujillo, a 21-year-old university student, in December 1971, and he never was seen again after February 2, 1972. Trujillo's mother first presented his case to the Inter-American Commission on Human Rights in September 1992. In 1996 President Sanchez de Lozada's Government accepted responsibility for Trujillo's arrest and disappearance and named those responsible, but did not hold them accountable. On January 25, the Banzer Government accepted responsibility for Trujillo's arrest and disappearance before the Court. The Government offered to begin negotiations with Trujillo's mother, who is seeking the return of her son's remains and punishment for those responsible, with the goal of an amicable settlement. These negotiations still were unsuccessful at year's end. The Government was pursuing cases against some persons accused of torture and deprivation of freedom, but not murder, in the Trujillo case. At year's end, the family was appealing the decision of the judicial system not to pursue murder charges.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Government generally respects this provision; however, there were a number of significant allegations of torture, beatings, and abuse by members of the security forces. There were no independently confirmed reports of abuse or beatings by security forces of civilians during the year.

During the April state of siege (see Section I.a.), there were allegations that the military took residents of Achacachi into custody in the middle of the night and beat them in an attempt to learn the names of those responsible for the death of an army captain. The army captain was an officer in a unit thought by demonstrators to be responsible for the earlier death of a civilian in Achacachi. A mob beat the captain, and after he was taken to a hospital, dragged him from the hospital and beat him to death. There also were allegations that arrestees from Patacamaya during the state of siege were beaten by the military prior to being transferred to the custody of the PTJ.

There were allegations that security officials beat protesters who they detained in the Chapare during the September-October disturbances, as well as allegations that they beat civilians to try to learn the location of missing security officials and the names of those responsible for their deaths.

There also were credible allegations that military officers and sergeants beat and otherwise mistreated military conscripts. The military justice case against superiors accused of allegedly beating conscript Roger Candia Vallejos in September and November 1999 continued at year's end.

Several police officers were fired and charged for off-duty crimes, and a number were dismissed for corruption. However, in general the police were not disposed to investigate their own colleagues, and prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty.

Neither the technical and judicial police nor prosecutors normally receive human rights training. Over 6,000 FELCN members, PTJ members, lawyers, prosecutors, and judges received training on bail provisions of the new Code of Criminal Procedures. In July foreign consultants conducted a 1-week human rights course for 33 FELCN investigators. The basic FELCN and UMOPAR training includes a human rights module.

In September 1999, the military signed a cooperation agreement with the Ombudsman's office and, in November 1999, the military concluded an agreement for cooperation and coordination for human rights training with the Ministry of Justice and Human Rights, which took place during the year.

Indigenous communities in areas with little or no central government presence impose punishment reliably reported to include the death penalty on members who violate traditional laws or rules, although the Constitution prohibits such punishment.

Prison conditions are harsh. Prisons are overcrowded, and conditions can be life threatening for inmates without money. According to the Director General of the Penal System in the Ministry of Government, as of July there were approximately

8,500 prisoners in facilities designed to hold 4,400 prisoners. The majority of all prisoners were held for narcotics crimes. The Pardon and Extraordinary Freedom Jubilee 2000 Law, an amended version of which took effect on December 8, is expected to reduce this overcrowding. The law pardons prisoners under the age of 21 or over the age of 60; reduces felony sentences by one-third for all prisoners sentenced prior to August 30; and pardons prisoners who are parents of minor children and have completed at least 50 percent of their sentences. (Reductions in felony sentences are not extended to prisoners convicted of murder, parricide, or treason, nor to most prisoners convicted of terrorism, rape, or narcotics trafficking. In addition, prisoners who were convicted for murder, rape, kidnaping, terrorism, or narcotics crimes and sentenced to more than 10 years in jail are not eligible for the benefits given to prisoners under age 21 or over age 60, or to parents of minor children.) The one-third reduction in sentences is expected to be that many prisoners would then have served over 50 percent of their sentences and thus be eligible for parole much sooner than expected. The law is expected to lead to the release of between 1,500 and 2,000 prisoners over the course of 2001.

Ability to pay can determine a prisoner's cell size, visiting privileges, day-pass eligibility, and place or even length of confinement. Cell prices range from \$20 to \$5,000 (125 to 30,000 bolivianos), paid to prior occupants or to prisoners who control cell blocks. For example, in the poorest parts of San Pedro prison in La Paz, inmates occupy tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some "low-rent" sections obliges inmates to sleep sitting up. Although only children up to 6 years old are supposed to live with an incarcerated parent, children as old as age 12 live with their fathers in San Pedro prison. According to the Director General, as of July there were 900 children living with a parent in prison. If such children have nowhere else to go, the Government considers it more humane to support them in prison than to leave them homeless in the streets. The standard prison diet, according to a 1995 study, can cause anemia; the diet has not been improved since then. The Government budgets only \$0.32 (2 bolivianos) per prisoner per day for food. Prisoners who can afford to use their own money to supplement the standard prison diet by buying food do so. There is no adequate health care within the prisons, and it is very difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners can obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Drugs and alcohol are readily available for those inmates who can pay.

There are separate prisons for women; conditions for female inmates are similar to those for men.

Convicted juvenile prisoners are not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners are scarce to nonexistent. The Government has acknowledged these problems but does not have sufficient resources to correct them quickly.

On June 28, Brazilian prisoner Mustafa Samir was found hanged and on June 29, Peruvians Omar Casis and Renaldo Montesinos were shot and killed at the maximum security San Pedro de Chonchocoro prison located near La Paz. Investigations into these deaths were pending at year's end. The prison houses the country's most violent prisoners and terrorists.

Unlike 1999 there were no instances of prisoners dying from fires in their cells during the year. In November 1999, prisoner Miguel Angel Rivero Siles died as the result of a fire in his prison cell; in May 1999 Carlos Freddy Cano Lopez was arrested and suffered severe burns after his cell mysteriously caught fire. He died in a hospital that June (see Section 1.a.). These were the second and third times since 1998 that prisoners had been burned in their cells. In 1999 the authorities discharged the two policemen arrested for attempting to burn a drunken man in September 1998, but their judicial case still was pending at year's end. On November 29, 1999, the Ombudsman and the Ministry of Government signed an agreement that led to the closing of several prisons determined to have inhuman conditions, including the detention cell in La Paz where Cano Lopez was burned. The agreement also called for repair of other substandard prisons, including San Sebastian prison in Cochabamba where Rivero Siles was burned. The San Sebastian solitary confinement cells subsequently were removed and replaced by a regular jail cell (see Section 1.a.).

In October 1999, Marcelo Botelho died in a Santa Cruz hospital and human rights organizations alleged that police had beaten the victim. However, there were no eyewitness reports, and the Government did not pursue a case against the police (see Section 1.a.).

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

*d. Arbitrary Arrest, Detention, or Exile.*—There were some instances of arbitrary arrest and detention. Arrests are carried out openly. The law requires a valid warrant, which a court must confirm within 48 hours. However, there were credible reports that these legal safeguards were violated in some cases.

On April 8, President Banzer declared a state of siege (see Section 1.a.), which under the Constitution provides for the detention of persons who are suspected of plotting against the public order. Those detained must be brought before a judge within 48 hours. The authorities detained 22 persons seen as instigators of the protests. Those detained included Felipe Quispe Huanca, executive secretary of the Sole Trade Union Confederation of Peasant Workers of Bolivia (CSUTCB), and several other trade unionists, peasant leaders, and university students. Quispe, the leader of indigenous farmers who manned roadblocks outside La Paz, is a former terrorist in the Tupaj Katari Guerrilla Army who was imprisoned during 1992–97 and then granted conditional release. Another approximately 50 persons were arrested for violating the state of siege and later released. The Ombudsman and human rights organizations challenged the detentions as illegal, since the authorities detained the 22 persons on April 7, prior to the April 8 supreme decree that enacted the state of siege. All 22 detainees were released by April 14, and the state of siege ended on April 20. The La Paz superior court and the Constitutional Tribunal both ruled in favor of the habeas corpus petitions after the detainees already had been released. The Ombudsman's office noted that this state of siege was the first in which habeas corpus was used as a legal tactic to attempt to force the Government to release detainees. There were allegations that the military beat residents of Achacachi and arrestees from Patacamaya during the state of siege (see Section 1.c.).

Denial of justice through prolonged detention remains the most pervasive human rights problem. Judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures keep persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners are released if a judge rules detention illegal, but the process can take months. Prisoners may see a lawyer, but approximately 70 percent cannot afford legal counsel, and public defenders are overburdened (see Section 1.e.).

According to a 1998 study, approximately 60 percent of those jailed still were waiting for the processing of their cases to be finished, and of those, 30 percent already had served what would have been the maximum sentence for the crime they were accused of committing.

The Government continued to address the problem of delay of justice by implementing the 1994 constitutional reforms to streamline the judicial system and by taking measures to correct other deficiencies as they come to light. In May provisions of the new Code of Criminal Procedures replaced the release provisions of the Personal Recognizance Law, promulgated in 1996, which were never utilized effectively. Most prisoners still await either trial or sentencing, but under the new Code of Criminal Procedures the courts are beginning to provide release on bail for some prisoners. Judges still have the authority to order preventive detention for suspects under arrest deemed to be a flight risk or for obstruction of justice. If a suspect is not detained, a judge still can order significant restrictions on a suspect's travel.

The expanding public defender program provides concise information about human rights to citizens and seeks to involve public defenders in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. A program of mobile public defenders who can reach the more remote parts of the country has proven effective.

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

The 1997 abduction case of Waldo Albarracin, President of the Bolivian Permanent Assembly for Human Rights (APDH), continued to move slowly through the judicial system. The authorities had yet to take any action regarding the four police officials accused of abducting Albarracin, although legal cases against two policemen were pending at year's end.

The Government does not use forced exile as a punishment.

*e. Denial of Fair Public Trial.*—The judiciary is independent; however, corruption and intimidation in the judicial system remain major problems. Poor pay and working conditions help make judges and prosecutors susceptible to bribes.

The judicial system has four levels of trial: Investigative, trial, superior court, and Supreme Court or Constitutional Court appellate review. Since the establishment of the Constitutional Court in 1998, the Supreme Court hears only appeals of substantive laws, not constitutional issues. The system is essentially a closed, written system. With rare exceptions, a judge does not interview witnesses, nor does an op-

portunity to examine and cross-examine witnesses before the judge exist. The highly formal and corrupt judicial system makes it difficult for poor, illiterate persons to have effective access to courts and legal redress.

In cases not involving the narcotics law, a judge of instruction is in charge of the first stage. The judge instructs the police about what witness statements he wishes to take. A prosecutor, who is an overseer of correct procedure, may intervene, if the judge deems it necessary, to give an advisory opinion. Often this opinion is provided in advance and contains the statements of all witnesses interviewed by the police or the prosecutor. If the judge finds that the evidence is conclusive of guilt, the judge submits the case to a sentencing judge for review. This second stage of trial involves an analysis of this evidence by the trial judge, who allows the defense to present additional evidence. The trial judge is not required to seek additional evidence, although the judge may add additional witnesses to be interviewed if deemed necessary.

In narcotics (Law 1008) cases, the FELCN handles the investigative stage, and there is no judicial review of cases to determine whether a case should move to the trial stage. This is expected to change when the new Code of Criminal Procedures takes full effect in 2001, and narcotics cases are expected to be handled the same as non-narcotics cases in the first two stages. The third stage of Superior Court review is essentially a review of all evidence, and the court may reopen the case for additional witnesses. The Supreme Court review, which is virtually automatic if sought in non-narcotics cases and is required in all narcotics cases, is a fourth iteration of that process. During the superior court and Supreme Court reviews, the courts may confirm, lower, raise, or annul sentences, or provide alternatives not contemplated in lower courts. The repetitive nature of this four-stage procedure requires a great deal of time before a final result is reached in an individual case.

Defendants have constitutional rights to a presumption of innocence, to remain silent, to an attorney, to confront witnesses, to present evidence on their own behalf, to essential due process, and to appeal judicial decisions. However, in practice almost none of these rights systematically exist. The full implementation of the new Code of Criminal Procedures on May 31, 2001, is expected to alleviate some of these problems. The new code is expected to facilitate more efficient investigations, transparent oral trials, and credible verdicts. Although the law provides for a defense attorney at public expense if needed, one is not always promptly available. The Government has hired 49 additional staff members to bolster rural public defense, achieving a total of 167 public defenders, legal assistants, and social workers.

In October 1999, the Constitutional Court ruled that the Judicial Council, established in 1998 to oversee the judicial process and to provide an impartial body to review the actions of judges, did not have the power to dismiss a Superior Court or higher level judge due to an administrative finding of malfeasance alone. The Court ruled that the removal of such a judge from office requires a final judgment and sentence of conviction in a criminal case tried before the Supreme Court. The Council retains its power to 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.

In early 1999, the Council had investigated numerous reports of judicial corruption, which led to the resignation or dismissal of more than 20 judges in Santa Cruz, Cochabamba, and La Paz. One of the dismissed judges, who allegedly accepted bribes from narcotics traffickers, protested his dismissal to the Constitutional Court, which ruled that only a court finding of malfeasance, rather than a finding by an administrative body such as the Council, was cause for dismissal. The Court's decision dealt a serious blow to the Judicial Council and weakened its role as a disciplinary body. At year's end, legislation was pending that would increase the Council's suspension powers to 3 years or would reinstate the Council's power to dismiss judges found guilty of malfeasance by the Council.

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 respect these provisions, there were credible allegations of UMOPAR abuses involving thefts of property. Residents in the cocagrowing areas generally are reluctant to file and pursue formal complaints. On May 17, the Government reopened a human rights office of the Ministry of Justice and Human Rights in Chimore in the Chapare region (see Section 4).

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

*a. Freedom of Speech and Press.*—The Constitution provides for the fundamental right to express ideas and opinions freely by any means of dissemination; however, there are some limitations on freedom of speech, and the Government attempted to

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

Press organizations alleged that the Government intentionally cut off electricity for 2 hours on April 8 in Cochabamba during the state of siege in order to silence radio and television stations (see Sections 1.a. and 1.b.). There has been no investigation of these allegations, by either press organizations or the Government.

The 40-person La Paz Press Tribunal is authorized to evaluate journalists' practices that are alleged to violate either the Constitution or citizens' rights.

Newspapers are privately owned, and most adopt antigovernment positions. State-owned and private radio and television stations operate freely. There were credible reports of government attempts to intimidate some news media to provide more favorable coverage.

The Government prohibits the importation of pornographic books, magazines, and artwork.

The Government respects 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 respect this right in practice; however, under the state of siege the Government imposed some limits on this right. The Government routinely grants permits for marches and rallies. There were numerous demonstrations throughout the year; in some cases protesters blocked roads. The Governor of La Paz temporarily instituted a ban on public gatherings of more than three persons during the state of siege.

As a rule, the authorities try to avoid confronting demonstrators. However, security forces clashed with union and other demonstrators on many occasions during the year, resulting in some deaths and hundreds of injuries (see Section 1.a.). The authorities intervened only when rallies became dangerously violent or interfered substantially with normal civic activity. The authorities regularly use tear gas and other forms of crowd control. In early February, violent protests over increases in municipal water prices left 130 persons injured (including 30 police) and led to the arrest of 180 persons.

The law provides for freedom of association, and the authorities generally respect this right in practice. The Government requires nongovernmental organizations (NGO's) to register with the appropriate departmental government. There were complaints in 1999 against the departmental government of La Paz for the revocation of civil registrations for three NGO's established by the Unification Church (see Section 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. There were 268 registered religious groups, which were mostly Protestant; at year's end, approximately 130 applications were pending. The only minority religions in the country that have encountered problems are Hari Krishna and the Unification Church. Hari Krishna had registered as an educational organization instead of as a religious organization. The Government sought to expel Hari Krishna from the country in the mid-1980's; however, the attempt failed when the Supreme Court declared it illegal. According to the Government, in 1999 it denied for lack of documentation a Hari Krishna application for registration as a religious organization. In August 1999, the Unification Church complained of ongoing harassment by the Government, specifically citing the August 1998 revocation by the La Paz departmental government of three civil registrations for church-affiliated NGO's. However, the Unification Church still is registered legally with the Ministry of Foreign Affairs and Worship as a religious organization.

On July 21, President Banzer signed a Supreme Decree governing the relationships between religious organizations and the Government. The decree updates a similar decree dating from 1985, which had been the subject of criticism by Catholic and non-Catholic religious groups. The new decree reflects input from religious groups and, according to the Government, is designed to increase transparency and dialog in church-state relations.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel. However, on numerous occasions during the year protestors blocked roads and highways. The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political reasons.

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government has accepted persons for resettlement; it received 2 refugees during the year, over 40 refugees in 1999, and 5 refugees in 1998. The issue of the provision of first asylum did not arise. After the 1996 takeover of the Japanese Ambassador's residence in Lima, Peru by Tupac Amaru Revolutionary Movement (MRTA) terrorists, the authorities found that some MRTA activists had used Bolivia as a safehaven and announced a more restrictive policy on accepting Peruvian political asylees. Nonetheless, members of the MRTA and other terrorists continued to use the country as a safehaven and a place to plan activities.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise 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 function openly. Implementing regulations for the 1994 constitutional revisions provide for half of the congressional deputies to be elected individually and directly, rather than from party lists. The first national election under these regulations was held in June 1997, with attendance by international observers. Only one instance of tampering with ballots was detected. Elections for national offices are held every 5 years; the next national election is scheduled for 2002. In August 1997, President Hugo Banzer Suarez of the Nationalist Democratic Action Party took office. His coalition controls the Senate but has a plurality of only 57 out of 130 seats in the Chamber of Deputies. However, the government coalition holds leadership positions in both chambers.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership; however, women and indigenous people are underrepresented in government and politics. Political parties acceded to demands from women that they be allocated a fair share of the candidacies in the 1997 national elections, approving a law that every third candidate on party lists must be female. In addition every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a development that has significantly augmented female representation to approximately 30 percent of municipal council positions. However, there have been reports that in some municipalities party leaders have pressured councilwomen to resign in favor of their male substitute, and women in three separate municipalities have allegedly been threatened with death if they do not resign their positions. There are 20 women among the 157 deputies and senators; there are no female ministers in the Cabinet and only 4 women among the 45 vice ministers.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views. However, NGO's and the Ombudsman have complained that government security forces and government ministries have refused to cooperate when NGO's or the Ombudsman are conducting investigations. The Government criticizes human rights advocates for paying attention exclusively to the negative aspects of the Government's performance.

APDH President Albarracin and his family have received anonymous threats in relation to the legal case against his alleged police abductors (see Section 1.d.). The APDH's branch office in Santa Cruz also received anonymous threats related to its investigations involving the security forces; in 1999 unknown parties broke into its office and destroyed its computer.

The Human Rights Ombudsman conducted numerous investigations and in August presented a comprehensive report to Congress that was critical of the Government, and particularly cited the fact that the greatest number of alleged violations were attributed to the police. The Chamber of Deputies Human Rights Committee, led by an opposition party congressman, also presented its annual report in August, which criticized the Government.

On May 17, the Government reopened a human rights office of the Ministry of Justice and Human Rights in Chimore in the Chapare region with assistance from

an international donor. All of the human rights offices in the Chapare region had closed in June 1999. These offices accept and pursue complaints of human rights abuses committed by anyone, including police, narcotics traffickers, and illegal coca growers.

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

The Constitution prohibits discrimination based on race, sex, language, religion, 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 is pervasive, but no system exists to register such incidents systematically. According to the National Police's Department of Statistics and Planning, in 1998 approximately 57 percent of reported assaults were perpetrated against women. According to a 1997–98 study conducted by the Pan American Health Organization and the Ministry of Health among women in three municipalities representative of the country's three major cultural and geographic zones, 62 percent of women reported experiencing some kind of domestic violence or abuse at least once in their lifetime. Approximately 21 percent had suffered psychological abuse, 28 percent had suffered non-life-threatening physical violence, and 13 percent had suffered life-threatening violence. Rape is also a serious problem that is highly underreported. It is estimated that only one out of every five incidents of violence against women is reported.

The 1995 Law on Domestic and Family Violence makes the rape of an adult victim a public crime; however, the victim must press charges. The law also broadens the definition of family member abuse. The 1999 Law against Sexual Violation created the new crime of statutory rape of a person from 14 to 18 years of age and established new penalties of 10 to 20 years' imprisonment for the rape of a child under the age of 14, 2 to 6 years' imprisonment for statutory rape, and 5 to 20 years' imprisonment for the rape of an adult. The new Code of Criminal Procedures provides that crimes against adults included in previous laws on sex crimes can be made public crimes; however, the victim must press charges. Sexual crimes against minors automatically are considered public crimes. Public agencies state that reported incidents of abuse have increased markedly as a result of the recent laws, as citizens become more aware of the problem and of the availability of help. There was no further action on proposed legislation to provide benefits and protection for domestic workers, including specific protection from physical, psychological, and sexual aggression.

In October 1999, President Banzer signed the Law to Protect Victims of Crimes Against Sexual Freedom, first proposed in 1997 as a draft law against sexual harassment. The new Code of Criminal Procedures (see Section 1.e.) for the first time considers sexual harassment a civil crime, also resulting in greater protection under the law. There are no statistics on the incidence of sexual harassment, but the problem generally is acknowledged to exist widely in the male-oriented society.

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

Legal services offices devoted to family and women's rights operate throughout the country. Family protection police units, staffed by specially trained officers, including women, also are active.

The Maternal and Infant Health Insurance Program, which began in 1996 and was expanded to the Basic Health Insurance Program in 1999, provides 75 types of 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 remain obstacles to advancement. Women generally earn less than men for equal work; however, the minimum wage law treats men and women equally.

Most women in urban areas work 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 work in agriculture. Young girls often leave school early to work at home or in the economy. According to a 1997 study by the Ministry of Education, four out of five illiterate citizens are female. Girls have lower rates of school participation and higher dropout rates than boys. 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.

*Children.*—The Government is aware of the precarious situation of children and the need to provide legal and institutional infrastructure for their protection. Seven Defender of Children and Adolescents offices were opened in 1997 in La Paz to help

protect children's rights and interests. However, the Government has not given the poor situation of children sufficient political priority to ensure that it can be improved quickly and effectively. In December the Government's Inter-Institutional Commission for the Progressive Elimination of Child Labor released a new national plan to address the problem of child labor, which includes programs to address financial, health, education, and other needs of children (see Section 6.d.).

In October 1999, President Banzer signed into law a new Code for Boys, Girls, and Adolescents, which codifies many obligations the country assumed by ratifying the U.N. Convention on Rights of the Child. It also regulates adoptions and tightens protection against exploitative child labor and violence against children. However, resource constraints are expected to impede full implementation of this law.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their own protection, simply on the orders of a social worker (see Section 1.d.). Corporal punishment and verbal abuse are common in school, and physical and psychological abuse in the home also are serious problems.

Although the law requires all children to complete at least 5 years of primary school, this requirement is enforced poorly, particularly in rural areas. The Ministry of Education and the World Bank calculated in 1997 that 26 percent of children graduated from high school. Prolonged teachers' strikes often result in lengthy school closures, limiting children's access to education.

The National Institute of Statistics calculated in 1998 that approximately 24 percent of children under 3 years old were chronically undernourished. A December 1999 UNICEF report on infant mortality indicated that 85 of every 1,000 children die before they reach 5 years of age.

Many children, particularly from rural areas, lack the birth certificates and identity documents they need to secure social benefits and protection.

Although laws provide safeguards against children working, they are not enforced effectively. According to a May 1999 study commissioned by the International Labor Organization (ILO), approximately 369,385 children between the ages of 7 and 14 work (23 percent of that age group), usually to help provide for family subsistence, in uncontrolled and sometimes unhealthy conditions (see Section 6.d.).

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

The old practice of "criadito" service still persists 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. There are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

There were unconfirmed reports that children sometimes were sold to work in sweatshops in Argentina (see Section 6.f.).

*People with Disabilities.*—In 1997 the Government promulgated regulations to implement the 1995 Law on Disabilities. The regulations require 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 established to oversee the law's enforcement, conduct studies, and channel and supervise programs and donations for the disabled. The electoral law makes arrangements for blind voters. However, in general there are no special services or infrastructure to accommodate disabled persons. A lack of adequate resources impedes full implementation of the law. Social attitudes keep many disabled persons at home from an early age, limiting their integration into society.

*Indigenous People.*—Discrimination against, and abuse of, indigenous people continued. The indigenous majority generally remains at the low end of the socio-economic scale, facing severe disadvantages in health, life expectancy, education, income, literacy, and employment. More than one-half of all citizens speak indigenous dialects as their first language, and many speak no Spanish at all, which essentially excludes them from most of the formal economy. Lack of education, inefficient farming and mining methods, indigenous cultural practices, and societal biases keep the indigenous people poor. They continued to be exploited in the workplace. Some rural indigenous workers are kept in a state of virtual slavery by employers who charge them more for room and board than they earn. Although the 1996 Agrarian Reform Law extended the protection of the national labor law to all paid agricultural workers, including indigenous workers, the problem persists due to lack of effective enforcement.

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, has been a constant source of complaints and protests by indigenous people.

Indigenous people complain that their territories are not legally defined and protected, and that outsiders exploit their resources. Specific offenders allegedly are illegal coca growers and timber pirates. Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that offer them greater opportunities for self-determination.

Clashes between Laime and Qaqachaca indigenous groups in the border of the Oruro and Potosi departments left dozens dead and injured over the course of the year. These groups have a decades-long history of tension over disputed land.

*National/Racial/Ethnic Minorities.*—There is ongoing societal discrimination against the small Afro-Bolivian minority.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers may form and join organizations of their choosing; however, labor leaders consistently state that a section of the 1985 Economic Liberalization Decree, which addresses the free contracting of labor, undermines any protections against dismissal without cause. Labor leaders allege that employers use or threaten to use this article to limit unionization. The Labor Code requires prior government authorization to establish a union, permits only one union per enterprise, and allows the Government to dissolve unions by administrative fiat; however, the Government has not enforced these provisions in recent years. The law requires the Government to confirm the legitimately elected officers of unions, a difficult role that it is not known to abuse. While the code denies civil servants the right to organize and bans strikes in public services, including banks and public markets, nearly all civilian government workers are unionized. Workers generally are not penalized for union activities; during the April state of siege some union leaders and activists were detained, not for union activities, but for their alleged roles in fomenting disturbances (see Section 1.d.). In theory the Bolivian Labor Federation (COB) represents virtually the entire work force; however, only about one-half of workers in the formal economy actually belong to labor unions. Some members of the informal economy also participate in labor or trade organizations. The CSUTCB, led by Felipe Quispe, is not a trade union in the traditional sense, since there is no counterpart employer with which to bargain. The CSUTCB is designed to maximize the power of indigenous farmers with respect to the Government and traditional trade unions.

On December 6, the Government announced that for the remainder of the President's term of office, it would not introduce legislation to modernize the antiquated Labor Code and patchwork of labor laws and to make them conform with ILO conventions that the country already has ratified.

Workers in the public sector frequently exercise the right to strike. Solidarity strikes are illegal, but the Government has neither prosecuted those responsible nor imposed penalties. Significant strikes centered around annual negotiations over salaries and benefits for public employees. However, their real targets were the Government's economic and social reform programs. During the April disturbances (see Section 1.a.), riot police struck for more pay. Most strikes were conducted and led by the self-described Trotskyite element of the Urban Teachers Union, which protested the Government's education reform plan, including reform of teacher training institutions, a merit-based salary system, and decentralization designed to give municipalities greater control over education. Teachers' strikes shut down public schools for several weeks in late September.

Unions are not free from influence by political parties. The COB itself is a political organization directed by Marxist ideologues. Its stated aim is to end the Government's neoliberal economic program, and it gives little attention to serious collective bargaining. Most parties have labor committees that attempt to influence union activity and also have party activists inside the unions.

The law allows unions to join international labor organizations. The COB became an affiliate of the Communist, formerly Soviet-dominated, World Federation of Trade Unions in 1988.

*b. The Right to Organize and Bargain Collectively.*—Workers may organize and bargain collectively. Collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, is limited but growing. The Labor Code was written in a period in which the COB, which purports to represent all worker groups and interests, had quasi-governmental status and the exclusive authority to negotiate with state-owned enterprises. The practice was for

the COB and the Government to negotiate a global agreement on salaries, minimum wages, and other work conditions each year. With the privatization of most of these enterprises, the COB's relevancy has diminished markedly, and the practice of direct employee-management negotiations in individual enterprises is expanding.

The law prohibits discrimination against union members and organizers. Complaints go to the National Labor Court, which can take a year or more to rule due to a massive backlog of cases. The court has ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders say that problems are often moot by the time the court rules.

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 Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, the practices of child apprenticeship and agricultural servitude by indigenous workers (see Section 5) constitute violations, as do some individual cases of household workers effectively held captive by their employers. In addition, women were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits all work for payment by children under the age of 14; however, this prohibition generally is not enforced. Child labor is a serious and increasing problem. The Labor Code is ambiguous on conditions of employment for minors from 14 to 17 years of age and permits apprenticeship for those 12 to 14 years old. The ILO has criticized this practice, which is sometimes tantamount to bondage (see Section 6.c). The law also prohibits the employment of persons under 18 years of age in dangerous, unhealthy, or immoral work.

Approximately one in every four children between the ages of 7 and 14 is employed in some way. A May 1999 study by the ILO estimated that approximately 70,000 children between the ages of 7 and 14 were working in cities, and that approximately 300,000 children in the same age group were working in rural areas. The extreme poverty of many families dictates the involuntary employment of their children for motives of survival. After an ILO-sponsored conference in May 1999 on the country's child labor problems, an Inter-Institutional Commission for the Progressive Elimination of Child Labor was formed. The Government also signed a memorandum of understanding with the ILO, pledging more attention to child labor, a 5-year plan to combat it, and adoption of policies against its most dangerous forms. In November President Banzer announced a plan to give small annual payments to families with children between the ages of 6 and 14 who were attending school. In December the Government's Inter-Institutional Commission released its new national plan to address the problem of child labor. The plan, which has not yet been funded, includes programs to give families alternatives to having children work, and to address financial, health, education, and other needs.

The Labor Ministry is responsible for enforcing child labor provisions but generally does not enforce them throughout the country. Although the law requires all children to complete at least 5 years of primary school, this requirement is enforced poorly, particularly in rural areas. Urban children sell goods, shine shoes, and assist transport operators. Rural children often work with parents from an early age, generally in subsistence agriculture. Children generally are not employed in factories or formal businesses but, when employed, often work the same hours as adults. Children also work in the mines and other dangerous occupations in the informal sector. Child prostitution is a growing problem, particularly among girls between the ages of 14 and 18. The law prohibits forced and bonded labor by children; however, the practices of child apprenticeship (*criadito*) and agricultural servitude by indigenous workers constitute violations, as do some individual cases of household workers effectively held captive by their employers (see Sections 5 and 6.c.).

*e. Acceptable Conditions of Work.*—In conformity with the law, the minimum wage is subject to annual renegotiation and was increased in January by 7 percent to approximately \$56 (355 bolivianos) per month, plus bonuses and fringe benefits. The minimum wage does not provide a decent standard of living for a worker and family, and most workers earn more. Although the minimum wage falls below prevailing wages in most jobs, certain benefit calculations are pegged to it. The minimum wage does not cover members of the informal sector, who constitute the majority of the urban work force, nor does it cover farmers, who account for some 30 percent of the working population.

Only one-half of the urban labor force enjoys an 8-hour workday and a workweek of 5 or 5-1/2 days, because the maximum workweek of 44 hours is not enforced. The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards are enforced poorly. Many workers have died due to unsafe conditions. However, the Government has requested

technical assistance in the occupational safety area from an international donor. The Labor Ministry maintains a hot line for worker inquiries, complaints, and reports of unfair labor practices and unsafe working conditions.

Working conditions in the mining sector are particularly bad. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, are dangerous and unhealthy. In some mines operated as cooperatives, miners earn approximately \$3 (20 bolivianos) per 12-hour day. They work without respirators in mines where toxic gases and cancer-causing dusts abound; they buy their own supplies, including dynamite, have no scheduled rest periods, and many work underground for up to 24 hours continuously. There are no special provisions in the law defining when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refuses to work based on the individual's judgment of excessively dangerous conditions may face dismissal.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, although aspects of the problem are covered in other laws and in the Constitution. There were reports of domestic trafficking in women for the purpose of prostitution. A union leader asserted that employment agencies lure rural indigenous women to cities with promises of employment as domestic servants but then force them to work without salaries to repay transport and other fees and sometimes turn them over to houses of prostitution. There were also unconfirmed press reports that children sometimes were sold to sweatshops in Argentina.

## 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 1998 voters elected President Fernando Henrique Cardoso, of the Brazilian Social Democratic Party (PSDB), to a second 4-year term. The 1998 elections marked the third 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 are able to compete on the basis of fair and equal procedures. The judiciary generally is independent; however, it is inefficient and subject to political and economic influence.

The military forces handled national defense and are subject to effective civilian control, both in law and in practice. Police forces fall primarily under the control of the states. State police are divided into two forces. The civil police have an investigative role, and the uniformed police, known officially as the "military police," are responsible for maintaining public order. Although the individual state governments control the uniformed police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system. The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. The state police forces committed numerous serious human rights abuses.

Brazil has a market-based, diversified economy. The Government, which traditionally played a dominant role in shaping economic development, is encouraging greater private sector participation in the economy through privatization of state enterprises, deregulation, and removal of some impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounts for approximately 35 percent of gross domestic product (GDP); agriculture contributes about 8 percent. Exports consist of both manufactured and primary goods. Among the principal exports are iron ore, coffee, airplanes, soybeans, and footwear. Per capita GDP was about \$3,400, and the economy grew by 4 percent. Income distribution remained highly skewed: the poorest half of the population received only 10 percent of national income while the richest tenth received 48 percent.

The Government generally respected many of the human rights of its citizens; however, there continued to be numerous serious abuses. State police forces (both civil and uniformed) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in criminal activity of all kinds, including killings for hire, death squad executions, and kidnappings for ransom. Prison officials often tortured and beat inmates. The state governments concerned did not punish most perpetrators of these abuses effectively. Police tribunals (special courts for the uniformed police) remained overloaded, rarely investigated cases thoroughly, and seldom convicted

abusers. The separate system of uniformed police tribunals contributes to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions range from poor to extremely harsh. The judiciary has a large case backlog and often is unable to ensure the right to a fair and speedy trial. Justice is slow and often unreliable, especially in areas where powerful economic interests influence the local judiciary. Human rights monitors on occasion face threats and harassment. Violence and discrimination against women are problems. Child prostitution and abuse are problems. Despite constitutional provisions safeguarding the rights of indigenous people, government authorities often fail to protect them adequately from outsiders who encroach on their lands, and fail to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians is a problem. Violence against homosexuals is a problem. Forced labor continued to be a serious problem. Child labor is a serious problem. There continued to be occasional reports of forced child labor. The Government continued its interministerial campaign against child labor. Trafficking in women and children for the purpose of forced prostitution is a serious problem.

The National Secretariat of Human Rights oversees the implementation of the Government's action plan to address human rights abuses. A new secretary was installed in May. In May U.N. High Commissioner for Human Rights Mary Robinson visited, and U.N. Special Rapporteur for Torture Nigel Rodley visited in August and September. Robinson commented on the Government's recognition of its human rights problems and stated that President Cardoso was on the right track in trying to reduce and eliminate abuses. Rodley noted the poor conditions in prisons and said that in many cases law enforcement authorities who torture prisoners and suspects do so with impunity. The Government undertook several programs to promote the protection of human rights. In 1996 a nongovernmental organization (NGO) established a witness protection program; the Government adopted it in 1999 in an attempt to combat widespread impunity. The Government's inter-ministerial Committee for the Defense of the Human Being (CDDPH), chaired by the National Human Rights Secretary, continued to be an effective instrument to highlight human rights abuses and allocate federal resources to bolster the efforts of the states. However, because of jurisdictional and resource limitations, the efforts of the Federal Government had an uneven and limited impact in many of the states where human rights violations are most common.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—Police committed numerous extrajudicial killings, which continued to be a serious problem throughout the country. The uniformed police summarily executed suspected criminals rather than apprehend them, and then filed false reports that the suspects were resisting arrest. Preliminary estimates from the states of Rio de Janeiro and Sao Paulo alone indicated that the police killed at least 1,000 persons during the year while operating in their "official" capacity. In addition many other killings occurred as the result of death squads and other criminal groups, many of which included police as members. The failure to investigate, prosecute, and punish police who commit such acts creates a climate of impunity that continues to encourage human rights abuses. Harsh conditions in prisons and rioting led to the death of inmates (see Section 1.c.).

The lack of accountability and the inefficient criminal justice system allow impunity to continue. All crimes less serious than murder committed by uniformed police officers against civilians remain in the military justice system. In 1999 an investigation into Sao Paulo's special courts for uniformed police uncovered 1,107 "missing" and "delayed" cases against uniformed police charged with crimes against civilians that include murder and torture. In 1999 a newspaper that had access to 300 cases under investigation found 100 murder charges among them, some delayed for up to 12 years. Equally long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations. This probe was the closest scrutiny ever of the special police courts and resulted in the authorities bringing criminal charges against two court officials.

Human rights activists believe that the 1996 "Bicudo" law, which gives civil courts jurisdiction over intentional homicide committed by uniformed police officers, has had limited success. In 1995—the last year before the implementation of the new law—police courts convicted 23 percent (48 of 205) of officers tried for homicide. In 1998 civilian courts convicted 48 percent (31 of 64) of officers charged with homicide. The comparable rate for civilians tried for murder in Sao Paulo was 50 percent. The law allows for civil prosecutors to review the most egregious cases, while less

prominent cases are reviewed by the police force itself. Almost without exception, the police investigators conclude that suspects were resisting arrest.

Police often were members of vigilante groups and death squads responsible for killings. In addition uniformed and civil police involvement in criminal activity is widespread. Throughout the country, police were implicated in crimes ranging from killing for hire and kidnaping to drug trafficking and extortion.

Reputable NGO's reported hundreds of extrajudicial killings and other abuses of force by police throughout the country during the year.

A Sao Paulo press report indicated that on November 8, a local police officer was arrested near Boa Vista, Roraima, on the accusation that he had participated in the killing of seven adolescents whose noisy party had bothered him.

Two Sao Paulo police officers were arrested on or about December 11 and accused of having killed four persons in a bakery in Sao Bernardo do Campo 5 days earlier. Three other persons were injured in the attack.

In May police shot and killed a member of the Landless Movement (MST) during a confrontation between protesters and uniformed police in the state of Parana (see Section 2.b.). The authorities did not charge or arrest any officer by year's end.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.). The authorities opened an investigation into the death of Nilson Saldinia, who died in February in the 50th district jail in Sao Paulo's Itaim Paulista neighborhood. At year's end, the investigation continued, but no one had been accused.

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

Harsh or dangerous prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to a number of deaths in prisons. Inmates in prisons and at juvenile detention facilities rioted repeatedly during the year (see Section 1.c.). Many riots resulted in a number of deaths, but no estimates were available for the number of prisoners killed nationwide during prison riots.

The office of the police ombudswoman in Rio de Janeiro state received 2,894 complaints from April 1999 through December 15, during its first 20 months of operation. Complaints against the uniformed police accounted for 60 percent of that total. There were 312 officially reported police homicides in the first 9 months of the year, compared to 289 in all of 1999. These statistics seriously understate the number of killings by police, as they do not include the deaths of perpetrators allegedly caught in the act of committing a crime. Previous research by the Institute for Religious Studies (ISER) suggests that, to estimate the true number of police homicides, the official figures should be doubled. The ISER report also stated that Rio de Janeiro police killed half of their victims with 4 or more bullets and shot the majority of victims in either the shoulder or the head; 40 cases clearly demonstrated execution-style deaths, where police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined, the victims were shot in the back.

According to the Sao Paulo state government, the uniformed and civil police killed 635 civilians in the first 9 months of the year, an increase of 30 percent over the same period in 1999. A Sao Paulo police ombudsman's report released in July showed that of the 664 persons killed by police officers in 1999, 31 percent were committing crimes at the time they were shot, 56 percent had no previous criminal record, and 51 percent of the victims were shot in the back. Many human rights observers believe that the report reflects excessive use of force by the Sao Paulo police.

In a nationally televised bus hijacking in Rio de Janeiro in June, police wounded a hostage while attempting to shoot the hijacker. The hijacker then killed the hostage. The hijacker was apprehended unhurt, but arrived dead at the hospital after police riding in the ambulance allegedly strangled him. At year's end, one police officer had been acquitted and four awaited trial.

Four uniformed police officers were sent to prison to await trial in a civil court for the highly publicized killing of three persons, including two juveniles (aged 14, 17, and 21) in Sao Paulo in February 1999. The officers arrested the victims for fighting, beat them, then were seen leading them into a forested area near where the bodies were found 2 weeks later. Each victim was shot once in the head. The police officers initially denied having any contact with the victims. They later confessed to the killings after 19 witnesses came forward to testify against them and a DNA test identified blood inside the police car as that of one of the victims. The perpetrators were charged with aggravated triple homicide, abuse of power, and hiding bodies.

The five uniformed police officers arrested in the March 1999 shooting deaths of two persons, one of whom was mentally disabled, in Sao Paulo's Jardim Elba slum, were jailed in September, pending trial. The officers, who allegedly shot the two out-

side of their police car, dragged the bodies inside, and then simulated an exchange of gunfire, were charged with homicide. At year's end, no trial date had been set.

Police sources reported that the investigation continues into the April 1999 death of 20-year-old Ricardo Galvao, who was shot, stabbed, and beaten. Galvao was last seen in a police vehicle after being caught trying to steal a car. On August 11, the police involved in the apprehension were expelled from the police force. The authorities charged two civilians with Galvao's death.

Four uniformed policemen are still in custody awaiting trial in the August 1999 double homicide that took place in Sao Bernardo do Campo, Sao Paulo. The accused suspected the victims of stealing a police motorcycle, questioned them, and returned to the neighborhood the following day, when they allegedly killed the two youths by shooting them in the head and leaving another youth for dead. The third victim survived by feigning death and was placed in the witness protection program.

In December 1999, police in the Federal District shot and killed one person and blinded another during a peaceful demonstration. The governor removed certain officials as a result. At year's end, the case against the police officers awaited trial.

There was no information available about an investigation into the February 1999 killing of Antonio Lopes in Natal, Rio Grande do Norte, or in the October 1999 killing of Robelio dos Santos, in Salvador, Bahia.

Amnesty International reported that police death squads still were active in Mato Grosso do Sul. There was no information available about the status of the cases against various police officers accused of participating in death squads in the states of Alagoas and Mato Grosso do Sul in 1997 and 1998.

In April a court retried and convicted former military policeman Otavio Lourenco Gamba, also known as "Rambo," for the murder of Mario Jose Josino in a highly publicized March 1997 extortion and killing incident in Sao Paulo's Favela Naval neighborhood. Gamba's 1998 conviction had been overturned due to lack of evidence. Eight other police officers were convicted of bodily harm and professional negligence. All were serving time in Sao Paulo prisons at year's end.

In April the State Court of Para annulled an August 1999 trial in the city of Belem that acquitted 3 uniformed police officers in command of the unit responsible for the 1996 massacre of 19 landless workers at Eldorado de Carajas in the Amazonian state of Para. Human rights activists considered this decision a major blow against police impunity. A new trial was scheduled for March 2001.

In September the State Court of Rondonia convicted 3 of 12 uniformed policemen and 2 squatters of homicide in the August 1995 killings of 11 squatters and 2 policemen in Corumbiara. The three officers received sentences of 16, 18, and 19 years. The two squatters who were tried were not convicted of murder but of inciting the killings and received 6 and 8 years respectively. Activists criticized the fact that the courts had acquitted 9 of the 12 police officers involved and that the court had not indicted the landowner who was involved directly in the conflict, despite the fact that there was a videotape of the landowner in which he told the police to attack the squatters, whom he called enemy guerrillas.

Of 31 police officers charged with participation in the 1993 massacre of 21 residents of the Vigario Geral neighborhood in Rio de Janeiro, the courts acquitted 19 and convicted 6 officers. At year's end, four officers awaited trial; two died before going to trial.

The trial of retired police Colonel Ubiratan Guimaraes again was delayed. Guimaraes is accused of homicide in the deaths of 111 inmates during an October 1992 riot in Sao Paulo's Carandiru prison. The charges he faces carry a penalty of 1,350 years of imprisonment, although his jail term would be limited to 30 years by the Constitution. Guimaraes would be the first policeman of the rank of colonel to face a civilian jury under the Bicudo law. The other 85 officers who are accused of involvement also await trial. The statute of limitations expired for the charges of torture and beatings, but the officers can be tried for murder. All of the officers, including Guimaraes, were released to await trial.

Death squads in which the police are involved contribute significantly to the level of violence and lawlessness, according to public security officials. Human rights groups reported the existence of organized death squads linked to the police forces that target suspected criminals and persons considered "undesirable" (such as street children) in almost every state. A report on death squads issued by the committee for human rights of the Federal Chamber of Deputies in 1999 highlighted death squad activity with police involvement in the states of Bahia, Rio Grande do Norte, Mato Grosso do Sul, Mato Grosso, Amazonas, Para, Paraiba, Ceara, Espirito Santo, and Acre. The report stated that death squads "arise because of the loss of credibility in the justice and public security institutions and the certainty of impunity as the result of the incapacity of the institutions that have jurisdiction in resolving

the problem.” The report indicated that death squad activity appeared to be declining except in Bahia.

In August 1999, the Governor of Espirito Santo (the state with the highest rate of homicide), stated that death squad activity involving the police contributed significantly to the level of violence in the state. A state police investigation and a state parliamentary committee of inquiry reported that an informal organization, the “Squad le Cocq” involving police, judicial, and elected authorities including Jose Carlos Gratz, president of the state assembly, was responsible for the vast majority of organized crime in the state.

An investigation instigated by the former president of the supreme court of Acre state and carried out under the auspices of the CDDPH amassed evidence that former Acre military police chief and former state and federal deputy Hildebrando Pascoal headed a crime ring and death squad in that Amazonian state linked to at least 30 murder and torture cases previously suspended by state authorities for lack of evidence. Charges against Pascoal include the kidnaping—with the collusion of military police officers from Piaui—and murder of the suspected killer of Pascoal’s brother, and the kidnaping of the victim’s wife and children in an attempt to locate the victim. A congressional committee of inquiry also established Pascoal’s control of narcotics trafficking within the state. A witness who testified before that committee identified the site of a mass grave in Acre that federal authorities believe Pascoal’s organization used to dispose of at least eight murder victims. Pascoal’s election to the federal Chamber of Deputies in October 1998 conferred on him parliamentary immunity from all prosecution. However, in October 1999, the Chamber voted to remove Pascoal’s immunity and the police subsequently arrested him. In June a federal judge ruled that Pascoal would face a jury trial on account of the capital offense, but no trial date was set. At year’s end, he was in prison and awaited trial on charges of murder; additional charges of narcotics trafficking and electoral violations were pending.

The authorities also failed to conclude the investigation of the May 1996 death squad killings in the Franco da Rocha neighborhood of Sao Paulo, and no charges have been filed in connection with the case. Witnesses identified five uniformed police officers as having arrested four men who were found dead a few hours later. Franco da Rocha is one of Sao Paulo state’s poorest communities and the location of a clandestine dumping site for the victims of death squads. Since 1993 at least 212 bodies have been found there, including 50 victims shot in the head. Progress in the investigation has been hampered by difficulty in identifying bodies whose heads or hands were amputated.

Several persons were killed in conflicts involving the settlement of disputes of land ownership and usage. The MST increased its campaign of legal occupation of lands identified as unproductive, and illegal occupation of land not yet so designated. In addition as a new policy, the MST began occupying public buildings in an effort to embarrass the Government and gain publicity for its cause. MST activists 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, released in October its report covering rural violence in 1998. The report presents a mixed picture of the overall human rights climate relating to the country’s land conflicts. Killings of landless activists increased to 47 in 1998, compared with 30 in 1997, while attempted murders rose from 37 to 46. Cases of torture rose from 5 to 35, but less serious indicators of aggression fell sharply. The report notes that increased actions by the Government to remove activists from illegal settlements resulted in increased confrontations and destruction of property and homes but also noted that the pace of agrarian reform outstripped new MST occupations, contributing to a less violent climate overall.

In the investigation into the March 1999 killing of the brother of an MST leader in Parana, the police arrested a suspected gunman but later released him. There was no information available about the investigation into the April 1998 death of MST leader Sadi Padillo in Santa Catarina.

The CPT’s report concludes that the climate of impunity enjoyed by landed interests as a result of the “fragile” justice system and the collusion of local political interests continues to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also notes that the tactics of the land reform movement have led to a self-perpetuating cycle in recent years, whereby increased confrontation and tension have led to increased government attention, encouraging in turn more land occupations. In 1999 statistics showed a decrease in violence.

Manuel Souza Neto, a leader of the MST, was killed in October and his body was found in his home. He had been shot, and reports indicate that his neck was slit. Members of the MST reported that landowners had sent death threats to the victim,

and suspect one landlord in his death. However, others note that the victim also was active in politics and that his killer could have been motivated by political goals.

On July 25, a wave of MST actions throughout the country left three dead. In Recife, a police officer shot and killed one protestor. The protestor was part of a group of about 300 activists attempting to occupy a regional bank headquarters. Near Fortaleza ranchers killed another MST member during an occupation attempt. In Para state, an unknown gunman killed an MST activist; six other persons had died in land-related violence in that area since May.

On November 21, MST leader Sebastiao da Maia, also known as Tiozinho, was killed during the occupation of a ranch in Parana. The authorities claimed that Maia was killed in a shootout during the occupation, but the MST claimed that he died in an ambush by hired gunmen. The authorities did not charge anyone with murder in the case but arrested five security guards on firearms charges. According to the Catholic Church's Pastoral Land Commission, Maia's killing was the tenth killing of a rural activist during the year.

Also on November 21, a gunman killed Jose Dutra da Costa, a rural activist in the state of Para. Police arrested the gunman the same day and suggested that Costa may have been killed on the orders of large landowners in the region. According to one source, for 2 years Costa had been on a death list of 18 activists.

On December 19, federal police seized a large cache of arms at a ranch in Pontal do Paranapanema, east of Sao Paulo, in the home of a member of a landowner's group. In 1997 the ranch had been the scene of an armed conflict between the landowner and the MST, in which eight MST members were shot. The landowner was acquitted of charges of homicide in that case, but faced arms charges after the arms seizure.

In June in the state of Para, Jeronimo Alves de Amorim was convicted of ordering the 1991 murder of the head of a local workers' union, Expedito Ribiero de Souza. Human rights activists noted that this conviction is the first time that a landowner has been held liable for such a crime. The court sentenced Alves de Amorim to 19 years in a maximum security prison (see Section 6.a.).

In an April retrial, a jury acquitted MST leader Jose Rainha for the 1989 killings of landowner Jose Machado Neto and police officer Sergio Narciso da Silva. In 1997 a jury in the small, rural town of Pedro Canario, Espirito Santo, sentenced Rainha to 26 years for the killing. The jury convicted Rainha even though the prosecution presented no material evidence and witnesses testified to Rainha's presence 1,500 miles away from the scene of the crime. Since Rainha's sentence exceeded 20 years, he automatically was entitled to a retrial. Police investigator Celso Jose da Cruz, who appealed his 1997 conviction (and sentence of 516 years' imprisonment) for involvement in these killings, was convicted in a retrial. There was no information available regarding the trials of the 29 policemen charged as codefendants in the killings.

According to human rights activists monitoring the case, proceedings remain stalled against the former mayor of Rio Maria, in the state of Para, who was charged with the 1985 murder of Joao Canuto, the first president of the rural workers' union in Rio Maria. Canuto's daughter, Luzia Canuto, received death threats as a result of the case. In 1998 the Inter-American Commission on Human Rights (IACHR) criticized the Federal Government for failing to prosecute the crime.

The four suspects charged with manslaughter in the burning death of Pataxo indigenous leader Galdino Jesus dos Santos in Brasilia still awaited trial at year's end. In 1998 an appellate court upheld a 1997 court decision to prosecute for manslaughter rather than murder. In 1999 a superior court ruled that a jury would try the defendants, and the defense appealed the decision. The appeal was denied in April, but a new appeal was filed, delaying the trial again. The accused remain in prison. Dos Santos died in April 1997 after the suspects set him on fire while he was asleep on a public bench.

Vigilante groups and death squads, which often included police officials, also were responsible for killings.

The National Secretariat for Human Rights sponsors training programs in human rights, carried out in cooperation with federal and state entities and national and international organizations, in most states. The Secretariat administers a human rights training program for policemen in cooperation with Amnesty International (AI) in 10 states. Human rights groups maintain that the effect of these programs has been limited, at best. However, human rights activists in many states reported willingness of police authorities to address their concerns and to deal with problems brought to their attention.

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

In 1995 Congress passed legislation that recognized and assigned government responsibility for the deaths of political activists who “disappeared” during the military regime while in the custody of public officials, and obligated the Government to pay indemnities of between \$100,000 and \$150,000 (200,000 to 300,000 reais) to each of the families. In 1997 President Cardoso signed a decree awarding reparations to the families of 43 such persons. As of March 1999, 265 persons had received indemnities out of 366 requests. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities.

No further progress was made during the year in investigating the mass grave found in the Perus Cemetery in Sao Paulo on September 4, 1990. Over the last 10 years, the authorities were able to identify the bodies of 6 persons from the 1,500 bones found. Human rights groups state that these persons were opponents of the military regime. However, attempts to identify additional bodies have stopped, and no efforts were made to find those responsible for the deaths.

*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, there are frequent credible reports that police torture and beat criminal suspects to extract information, confessions, or money. Victims generally are poor, uneducated about their rights, and afraid to come forward due to fear of reprisals. Prison officials often tortured and beat inmates.

As in the cases of extrajudicial killings, the police benefit from a high level of impunity. A 1999 investigation by prosecutors into Sao Paulo’s special courts for uniformed police uncovered 1,107 “missing” and “delayed” cases against uniformed police charged with crimes against civilians that include murder and torture. A newspaper that had access to 300 cases under investigation found 100 murder charges among them, some dating back up to 12 years. Equally long delays have allowed many cases of torture and lesser charges to expire due to statutes of limitations. Although some policemen are expected face criminal charges as a result of this investigation, human rights officials called the findings “horrifying.”

The Sao Paulo state police ombudsman received 481 complaints through the first 9 months of the year alleging torture, abuse, mistreatment, or neglect (negligence accounts for 132 of these complaints). This represented a slight increase from the same period in 1999, when the ombudsman received 467 such complaints. The ombudsman’s office believes that many cases are not reported.

U.N. Special Rapporteur for Torture Rodley visited the country for 23 days in August and September. While his final report had not been issued before year’s end, Rodley described conditions in some prisons as grotesque and stated that the Congress promotes impunity of police agents by failing to provide proper oversight and by giving them excessive powers. Rodley told the Federal Chamber of Deputies Commission on Human Rights that the authorities routinely subject suspects and prisoners to illegal detention, subhuman conditions and torture, and rarely are punished for the abuses. He described instances during his visit in which prisoners were beaten after talking with him, where torture implements were discovered in a prison, and where he had to take one prisoner to the hospital to recover from a beating. He also told the Commission that officials in one prison promised to discipline one corrections officer, but did not do so. He called the situation worse than he had imagined and presumed that his experience represented only a fraction of the problem.

In 1999 the Globo newspaper in Rio de Janeiro published the results of an investigation into the allegations of torture by state police. The police opened a total of 53 investigations regarding complaints of torture against police authorities between 1997, when the torture law came into effect, and 1999. Only one of the inquiries, which had been suspended, officially had been concluded. The report identified several patterns, including the use of electric shock, beatings with iron bars, and sexual abuse including sodomy with foreign objects. The report noted that police classified such incidents as abuse of authority and physical assault, offenses that are far less serious than torture. As a result of the report, the state government ordered an independent review of the 53 cases, and the Federal Government established a task force to review Rio de Janeiro state police practices.

In 1999 Sao Paulo officials investigated allegations that investigative police of the 26th state police district humiliated and beat prisoners after inmates secretly audiotaped 20 police officers beating them and threatening to kill them. The authorities responded by creating a special service to receive complaints of torture committed by investigative and uniformed police. Persons wishing to make a grievance about police activity or offer suggestions contacted the police ombudsman over 8,000 times during the first 9 months of the year.

On October 18, Amnesty International released a special report on torture that included five cases in the country. One was that of “Jose” (not his real name), a

juvenile in the state of Para who was beaten so severely by police that he has needed psychiatric treatment ever since. Jose's mother complained about the beating to the local public prosecutor, who referred the case to the police chief at the same station where the beating occurred. Other cases were cited in Paraiba, Sao Paulo, and Pernambuco.

On October 19, the authorities arrested two civil guards in Sao Paulo and accused them of the sexually assault of three teenage girls caught trespassing in a cemetery. Police authorities began an internal investigation into the matter.

On October 24, Federal Highway Police arrested a Rio state policeman and accused him of having been a member of a gang that specialized in robbing trucks at gunpoint along the highways. Police were investigating the possible involvement of other officials in the activities of the gang.

In late November, several former prisoners who had been held in an Air Force prison in Rio de Janeiro made public their allegations of having been tortured during their time in prison. The allegations included accusations of beatings and electric shocks. The Federal Police announced that it would begin an investigation into the reports. The allegations were also investigated in early December by the Human Rights Commission of the Chamber of Deputies.

On December 14, two policemen severely beat a shoe shiner, Rangel Bezerra de Lima, in Ceilandia, Federal District. The reason given by the police during the attack was that they had experienced a "bad day." The case got the attention of the Human Rights Division of the Ministry of Foreign Relations, which assisted Rangel in filing a complaint against the perpetrators, accusing the police of torture.

The case of Otavio dos Santos Filho, who allegedly died as a result of torture at Sao Paulo's Depatri jail in 1999, was archived without any resolution. No explanation for closing the case was been made public by year's end.

Police authorities took no action regarding 107 cases of torture and beating that took place in the Depatri jail in February 1998 and were confirmed by the Police Medical Institute. Prosecutors and human rights groups continued to push for a trial of the guards who are accused in the case.

In 1997 civil policemen in Belem, Para state, under the command of Captain Clovis Martins de Miranda Filho, accosted Hildebrando Silva de Freitas, who apparently had failed to pay a bribe for a liquor license for his bar. At Captain de Miranda's direction, as many as 10 police officers severely beat and sexually abused de Freitas. In 1998 an internal police investigation concluded that de Freitas had suffered severe physical injury and did not contest the testimony of the witnesses who corroborated his account, but declared there was no connection between his injuries and the officers who had confronted him. At year's end, the case was under review by the Para state prosecutors' office. De Miranda has brought a defamation suit against the state ombudsman for public security in Para for statements that she allegedly made to the press regarding the case. The state has declined to bear the costs of the ombudsman's defense.

Police violence against homosexuals continued (see Section 5).

There continue to be numerous credible reports of state police officials' involvement in crime, including revenge killings and intimidation and killing of witnesses involved in testifying against police officials.

The Sao Paulo state police ombudsman received 218 complaints in the first 9 months of the year alleging corruption, illicit enrichment, swindling, embezzlement, or participation in drug trafficking on the part of policemen.

The International Committee of the Red Cross (ICRC) continued its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. A total of 860 military police have been trained in basic techniques, including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force. The program was funded through December, and the ICRC office expected authorization to proceed for 2 to 3 more years. The Center for the Study of Violence at the University of Sao Paulo is expected to review the results. The military police in the states of Amapa, Paraiba, Rondonia, and Sao Paulo already have incorporated the ICRC program into their general police training program.

Over one-fifth of Sao Paulo's uniformed police officers have received some kind of community police training under the state's community policing initiative. Begun in December 1997, the program is expected to take 10 years to implement fully. Under the program, high-ranking police officials meet with citizens' consultative groups weekly. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

Prison conditions range from poor to extremely harsh. Severe overcrowding was prevalent, especially in larger cities. According to Ministry of Justice figures for

1998, about 85 percent of the prison population was kept in substandard conditions. The situation was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, and Pernambuco. Most penal authorities in these states do not have the resources to separate minor offenders from adults and petty offenders from violent criminals. Prison riots were frequent occurrences. Discipline is difficult to maintain under such conditions, and prison officials often resort to inhuman treatment, including torture.

AI stated that the prison system was "in crisis" in a comprehensive report on prisons released in June 1999. The report was based on 33 visits to prisons in 10 states. In December 1998, Human Rights Watch (HRW) also issued a comprehensive report entitled "Behind Bars in Brazil," based on an intensive review of prison conditions in eight states. Both reports meticulously detail inhuman conditions and systematic and wide ranging abuses of human rights throughout the prison system. Among the most serious charges are the commonplace undocumented and uninvestigated deaths of inmates at the hands of authorities or other prisoners, and the routine use of torture against inmates by both guards and police officers.

Poor working conditions for prison guards aggravate substandard prison conditions and encourage corruption. The director of Sao Paulo's Carandiru prison (the largest in the country) told representatives from AI that many cases of torture and use of excessive force result in part from employees' working conditions. An investigation of the more than 1,100 employees of Sao Paulo's prison at the end of 1998 showed that 241 had criminal records themselves. The majority of the charges against them were for crimes committed while working at the prison and ranged from drug trafficking and threats to assisting in escapes. The state secretary of penitentiary administration was aware of the guards' criminal pasts and allowed them to continue working. At year's end, prison officials stated that investigations were continuing and that they had discharged some employees.

In September the director of the maximum security prison Bangu 1 in Rio de Janeiro, who had attempted to clean up corruption and violence at the institution, was murdered—probably on orders from incarcerated drug traffickers, corrupt prison guards, or police officers, according to state security officials.

Prisons do not provide adequate protection against violence inflicted by inmates on each other.

On October 10, news media reported a riot in a Parana state prison in Piraquara, where prisoners armed with pistols and a grenade took seven guards hostage. According to news sources, this was the second riot there in 4 months. Another riot occurred on October 10 in Contagem, a district of Belo Horizonte, in which one policeman and one prisoner were injured. Press reports stated that it was the third riot there during the year, and that the cause was overcrowding.

On October 22, prisoners took 66 persons hostage during a riot in Penitenciaría Nelson Hungria, near Belo Horizonte. The prisoners were armed with pistols and knives. The riot ended with a promise by the authorities to transfer some of the inmates to other facilities.

On October 23, a riot broke out in Penitenciaría 2 de Itapetininga, in Sao Paulo State. At least 500 prisoners were involved; they took 14 guards as hostages. The riot lasted only 9 hours, but three prisoners died from fires set during the incident. On October 24, a gang fight inside Carandiru Prison in Sao Paulo killed two prisoners and injured another five. According to the authorities, the gangs were fighting over control of the prison. Prison authorities responded by transferring prisoners identified as most dangerous gang members to other facilities.

On or about November 5, a riot broke out in the Casa de Detencao Jose Mario Alves da Silva, in Porto Velho, Rondonia. Three prisoners were killed (apparently by other prisoners) and another 17 were injured. A guard also was injured. The revolt lasted 79 hours.

Armed with knives, razor blades, and pistols, prisoners in Sao Paulo's high-security Taubate penitentiary rioted December 17 and 18, resulting in the deaths of nine inmates. The riot was sparked by prisoner demands for transfer to lower-security facilities and was followed by an unsuccessful escape attempt. After the riot was quelled, the authorities transferred 25 prisoners to other facilities.

Prisoners also are subject to extremely poor health conditions. Scabies and tuberculosis, diseases not common in the general population, are widespread in Sao Paulo prisons. The Ministry of Justice estimates that 10 to 20 percent of the national prison population is HIV positive. Denial of first aid and other medical care sometimes is used as a form of punishment. According to the Sao Paulo state secretary of prison administration, 1,923 prisoners in Sao Paulo's prisons are infected with tuberculosis, 178 have leprosy, 122 are infected with hepatitis, 457 are infected with HIV, and over 3,800 suffer from full-blown AIDS. AI reports that, while underused, the

Sao Paulo state hospital for prisoners with AIDS is cleaner and better organized than most prison hospitals.

Overcrowding in Sao Paulo's prisons and police detention centers, which hold about 43 percent of the country's prison population, is a critical human rights problem. Although state prison capacity has risen by 50 percent with the opening of 21 new prisons since 1998, rising crime and inflexible sentencing has meant that facilities remain overcrowded. The prison population increased by 7,000 persons in the first 8 months of the year.

The state of Sao Paulo has approximately 92,000 prisoners. Only about 59,000 these prisoners are in the state penitentiary system. Due to lack of space, more than 32,000 prisoners, most of whom already have been convicted and should be in state penitentiaries, remain in temporary holding facilities in police stations. The state penitentiary system has an over-capacity rate of about 18 percent.

Sao Paulo prison authorities openly admit that overcrowding has led to abysmal conditions and violent riots in Sao Paulo prisons. There were 25 riots during the year in Sao Paulo prisons, which resulted in the deaths of 23 prisoners. A riot in Parana state on June 3–6 left one prisoner dead and three injured. Another riot occurred on July 12, although no one was hurt in that incident. Among the prisoners' complaints were overcrowding, the slow parole process, and lack of conjugal visits.

Overcrowding and lack of adequate security also lead to a number of escapes and carefully planned jail and prison breaks. On September 19, in Sao Paulo state, armed men broke into 2 prisons and 1 jail and freed 206 prisoners. At another break at Sumare prison, also in Sao Paulo state, 7 men stormed the complex and freed 92 of the 100 prisoners. Numerous breaks such as these occurred throughout the year, and very few prisoners were recaptured. In at least one case seven guards were held hostage during the escape.

Torture and mistreatment of prisoners by prison officials is also a serious concern. Investigations began in the torture and beatings of 20 prisoners in Sao Paulo's Sorocaba prison. The prisoners and their relatives charge that on July 28, the prisoners were forced to walk through two rows of police officers (armed with truncheons and sticks) who beat the prisoners as they walked. The prisoners were then divided into groups of five and each group locked into a solitary confinement cell designed to hold one person. In October a public prosecutor charged 20 policemen and 5 penitentiary guards with participating in the torture of inmates.

The authorities opened an investigation in the death of Nilson Saldinia, who died in February in the 50th district jail in Sao Paulo's Itaim Paulista neighborhood. Human rights groups claim that he died as a result of torture after police beat him and other prisoners with bars and metal rods and applied electric shocks to them (see Section 1.a.).

An investigation also has been opened into the allegation of a June 3 torture incident involving over 100 prisoners in Sao Paulo state's prison facility in the city of Americana. According to Justica Global, a local human rights group, prisoners were forced to pass through a "corridor" formed by military policemen from the Special Operations Unit while the policemen beat the prisoners with iron bars, truncheons, and whips. According to the organization, one prisoner's left arm was broken and another prisoner, Wilson Pereira da Silva, was beaten severely and then police threw a mixture of vinegar, water, and salt on his wounds. The director of the facility was fired shortly after the accusations surfaced.

Sao Paulo prison officials have taken steps to improve the quality of the prison guard force. Since 1998 new hires are required to have a high school diploma and to take human rights courses. Sao Paulo prison authorities also are attempting to improve conditions by building more prisons (six small ones were built during the year), by improving training of prison personnel, and by creating committees of community leaders to monitor prison conditions. However, they emphasize that the most serious problem—overcrowding—can not be resolved in the short term as it is simply impossible to build as fast as the prison population is growing.

The states of Rio de Janeiro and Sao Paulo provide separate prison facilities for women, but generally only in houses of detention or actual prisons, where female inmates are separated from men. However, in Rio de Janeiro state there are only two police districts in which women in lockup are held in exclusive short-term jail facilities. Women's facilities in Sao Paulo's penitentiary system are even more overcrowded than those for men. Facilities built to accommodate 600 female inmates hold 1,055. The state's prison expansion program did not include provisions for additional space for women. There are no facilities that are exclusively female—including inmates, guards, and warden. With male officers in women's prisons, opportunities for abuse and extortion of sexual favors are abundant.

Sao Paulo's juvenile detention centers (FEBEM) continue to be plagued by overcrowding, poor conditions, riots, and accusations of torture. The authorities com-

pleted an investigation into the 1999 riots at the FEBEM facility at Franco da Rocha and fired the director as a result. Human rights NGO's expressed regret that this was the only management-level employee discharged by year's end.

Since the extremely violent Tatuape complex riot in October 1999, human rights groups estimate that FEBEM employees have tortured or beaten at least 700 FEBEM inmates. The two most common forms of torture cited by these groups are "repique" and "recepcao." Repique is used after attempted escapes or rebellions, when the employees gather the inmates and beat them with iron bars and sticks. Recepcao occurs when adolescents are transferred to different facilities and are greeted by two rows of FEBEM guards who kick, beat, and scream at the prisoners as they pass between them to teach them the rules of discipline.

The Public Ministry was investigating 87 cases of torture and mistreatment in FEBEM facilities. Officials were considering for investigation another 52 complaints of mistreatment. The majority of the investigations and complaints involve the Tatuape complex.

Three cases of torture occurred in FEBEM facilities in June and July, involving the so-called ninjas, a group of FEBEM guards who roam FEBEM complexes at night, beating inmates at random. Actions by this group were registered at the Cadeiao de Pinheiros, Tatuape, and Franco da Rocha facilities.

Human rights organizations also accuse the Sao Paulo state government of holding 900 of the 4000 FEBEM inmates in an "irregular" state (in violation of a federal statute) by putting them in adult prison facilities, in violation of the International Convention on the Rights of the Child, to which the Government is a signatory. The transfer of youth to adult prison facilities began in August 1999 and intensified after the riots in November of that year. Injunctions that would force FEBEM officials to move the youth to juvenile facilities consistently have been reversed by the Sao Paulo supreme court, citing the fact that there is no other place to put the inmates.

Government action has proved ineffective in improving the conditions in FEBEM. After the November 1999 riots, Sao Paulo Governor Mario Covas promised to build 20 new facilities and fire all FEBEM employees responsible for torture. To date 4 of the 20 facilities have been built, but they have failed to resolve overcrowding. Moreover, two of these new facilities were sites of later riots, leading employees to complain that the inmates had been transferred before the facilities were ready and able to provide basic care or recreational or educational activities. Some employees accused of mistreatment have been fired, but human rights groups claim that only a small portion of those responsible have been dismissed.

There is no evidence that conditions have improved in the 14 months since riots began. A report put together by several human rights groups also notes that FEBEM officials demand 5 days' notice for visits by human rights groups, inhibiting the independent analysis of conditions within the FEBEM complexes.

In August local human rights NGO's delivered a report to Nigel Rodley, the U.N. Special Rapporteur for Torture about the situation in FEBEM. Rodley toured the facilities and reported finding instruments of torture.

In November 1998, President Cardoso approved a law authorizing alternative sentencing for nonviolent offenders aimed, in part, at easing prison overcrowding. In its 1999 prison report, AI noted that the states of Rio Grande do Sul and Mato Grosso do Sul have imposed noncustodial sentences effectively, but points out that in states such as Rio de Janeiro alternative sentencing has not been implemented effectively. There was minimal improvement during the year on the issue of alternative sentencing. In May the Government approved legislation that provided new funds for prisons and options for alternative sentencing. In September Justice Minister Jose Gregori inaugurated a National Center of Support and Accompaniment for Alternative Sentences to educate the judiciary to apply alternatives such as community service to convicts sentenced to less than 4 years' incarceration to reduce prison overcrowding.

It is government policy to permit prison visits by independent human rights monitors, and state prison authorities generally observe 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. U.N. Special Rapporteur Rodley was given full access during his 3-week fact-finding mission in August and September. By contrast, HRW noted in preparing its prison report in 1998 that gaining access to prisons was "surprisingly difficult," and that barriers ranged from outright denial of access to the use of procedural delays. Only three states of the eight investigated—Amazonas, the Federal District, and Rio Grande do Norte—had made their prisons completely accessible to Human Rights Watch.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observes this prohibition; 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 authorities generally respect the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates are 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. However, groups that work with street children claim that the police sometimes detain street youths illegally without a judicial order or hold them incommunicado.

Human rights monitors allege that civil and uniformed police regularly detain persons illegally to extort money or other favors, citing the Favela Naval incident of 1997 as the most notorious example (see Section 1.a.).

The U.N. Special Rapporteur on Torture made an inquiry into the death of Anderson Carlos Crispiniano, who alleged himself to be the victim of police torture in Rio de Janeiro. In June Crispiniano was asleep at his home when a group of armed men identifying themselves as policemen forced their way in and arrested him without a warrant. They removed Crispiniano from his home and later telephoned to say that he was being held hostage for ransom. He later was released, badly beaten and partly paralyzed, and died after 15 days in the hospital.

HRW noted that police in the state of Parana arrested 173 persons, mostly without probable cause, during forced evictions carried out during the year.

According to an AI press release, police detained 141 persons in an attempt to prevent protesters from disrupting the 500th anniversary celebration in Porto Seguro on April 22. Human rights activists protested the police action, calling the detentions unjustified and out of proportion to any perceived threat (see Sections 2.b. and 5). The authorities later released the temporarily detained demonstrators without filing charges.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The judiciary is an independent branch of government; however, it is inefficient, subject to political and economic influence, and plagued by problems relating to lack of resources and training of officials. In many instances, lower-income, less educated citizens make limited use of the appeals process that otherwise might ensure the right to fair trial.

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

Defendants in criminal cases arrested in the act of committing a crime must be charged within 30 days of their arrest, depending on the crime. Other defendants must be charged within 45 days, although this period can be extended. Defendants for all but the most serious crimes have the right to a bail hearing. Based on the police investigation leading to the formal charges, prosecutors prepare an indictment for the review of a judge, who determines if the indictment meets the legal requirements to bring the accused to trial. A judge and jury try persons accused of capital crimes, attempted homicide, or more serious charges. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They further have the 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 inconsistent with the decision of a court in another state or infringes on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial in the same court.

Special police courts have jurisdiction over state uniformed police (except when charged with intentional homicide); the record of these courts shows that conviction is the exception rather than the rule. These courts (which are separate from the courts-martial of the armed forces, except for the final appeals court) are composed of four ranking state uniformed police officials and one civilian judge. With too few judges for the caseload, there are backlogs, and human rights groups note a lack of willingness by police to investigate fellow officers.

A 1996 law gives ordinary courts jurisdiction over cases in which uniformed police officers are accused of intentional homicide against civilians. However, except for the most egregious cases, the internal police investigation determines if the homicide was intentional, and the police tribunal decides whether to forward a case to a civil court for trial. As a result, few cases are referred to the civil courts. It takes 8 years to reach a definitive decision in the average case. At the appellate court level, a large backlog of cases hinders the court's ability to ensure fair and expeditious trials.

Defendants are entitled to counsel and must be made aware fully of the charges against them. According to the Ministry of Justice, approximately 85 percent of prisoners cannot afford an attorney. In such cases, the court must provide one at public expense; courts are supposed to appoint private attorneys to represent poor defendants when public defenders are unavailable, but often no effective defense is provided. Juries decide only cases of willful crimes against life, including crimes by police; judges try all others.

The right to a fair public trial as provided by law generally is respected in practice, although in some areas, particularly rural areas, the judiciary generally is less capable and more subject to influence. Similarly local police often are less dutiful in investigating, prosecutors are reluctant to initiate proceedings, and judges find reasons to delay when cases involve gunmen contracted by landowners to eliminate squatters or rural union activists.

Low pay, combined with exacting competitive examinations that in some years eliminate 90 percent of the applicants, make it difficult to fill vacancies on the bench. The system requires that a trial be held within a set period of time from the date of the crime. However, due to the backlog, old cases frequently are dismissed. According to a former judge, this practice encourages corrupt judges to delay certain cases purposely, so that they can be dismissed. Lawyers often drag out cases as long as possible in the hope that an appeals court might render a favorable opinion and because they are paid according to the amount of time that they spend on a case.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for freedom from arbitrary intrusion into the home. Wiretaps authorized by judicial authority are permitted. The law regulating the conditions under which wiretaps may be used appears to strike a fair balance between giving the police an effective law enforcement tool and protecting the civil liberties of citizens. The inviolability of private correspondence is 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 a free press, and the authorities respect these rights in practice.

Newspaper, magazines, and a growing number of on-line electronic publications, which are privately owned, vigorously report and comment on government performance. Both the print and broadcast media routinely discuss controversial social and political issues and engage in investigative reporting. Most radio and television stations are privately owned; however, the Government has licensing authority, and politicians frequently obtain licenses. Current or former congressional representatives, some of whom are or were members of the committee that oversees communications, own many television and radio stations, as well as local newspapers. It is difficult to determine how many media outlets are controlled indirectly by politicians, since concessions often are registered in the names of family members or friends linked to them. In addition the Government regularly approves transfers of concessions already granted to other individuals with little oversight.

The penalty for libel under the 1967 Press Law is a prison term. It is considered extreme by judges and rarely is imposed. The National Newspaper Association (ANJ) continued to press for an updated press law, noting that the current law dates from time of the military regime. Newspaper owners throughout the country have complained about judges who have imposed huge fines and jail terms against newspapers for “moral damage” that appear aimed at crippling news organizations. According to the ANJ annual report issued in September, if the new law does not establish criteria for calculating maximum fines for libel, there is a risk of restrictions to freedom of the press.

In December 1999, the Lower House of the Congress approved a press gag law (Lei Mordaca) that would penalize prosecutors, judges and government attorneys for revealing information about ongoing cases to the press. The ANJ, together with the Inter-American Press Association, mounted a public campaign against the law and Congress effectively stalled the legislation. The journalists argued that such a gag law would represent a prior restraint on freedom of speech, in violation of the Constitution.

Complex electoral campaign laws regulate the broadcast media and prescribe complicated arrangements to 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 non-appeal 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 accept the manner in which the campaign laws are enforced.

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

The National Federation of Journalists (FENAJ) and the ANJ have documented a number of violent attacks, including killings and threats against journalists. The September ANJ report, which covered the period August 1999 through July, listed 8 cases of physical aggression against 12 journalists, including a murder attempt upon a newspaper reporter in Bauru, Sao Paulo. It also described five death threats against journalists. Although no new murder cases were reported during the year, the ANJ report noted that seven journalists have been murdered since 1995 and none of the crimes have been solved. The police said that charges have been brought in four of the cases, and that they could not gather sufficient evidence in the other three. The ANJ further stated that impunity for crimes committed against journalists and inappropriate and inconsistent application of the Press Law are impediments to the functioning of the free press.

The ANJ alleged that on February 17, two uniformed police officers attacked Juarez Rodrigues, from the newspaper Estado de Minas. The officers also confiscated Rodrigues' working equipment, his cellular phone, and demanded the roll of film in which Rodrigues had recorded a police action. Police Commander Augusto Severo later visited the newspaper's director to apologize for the actions against the reporter and to promise to pay for any material damage to the equipment. Severo also stated that a military inquiry had been initiated to punish the officers responsible.

The ANJ also alleged that, on February 22, two journalists and a driver from the newspaper O Povo de Fortaleza were beaten and tortured on the orders of the mayor of a small town, Hidrolandia, in which they were investigating a story. Although criticized and forced to leave his political party, the mayor remained in office.

According to the Inter-American Press Association (SIP), on March 3, journalist Ricardo Noblat, managing editor of the newspaper Correio Braziliense of Brasølia, alleged that two of his sons had been attacked and that he had been receiving anonymous telephone threats since 1998. He stated that these actions were political persecution because of his professional activity. On June 27, the CDDPH gave the Justice Minister a preliminary report about the attacks on Noblat's sons. Although it was only preliminary, the report by the Justice Ministry concluded that the attacks were political.

Also according to the SIP, on March 8, a group of masked, armed men kidnaped journalist Klester Cavalcanti, correspondent of the magazine Veja in Belem, capital of Para state. The men pushed the journalist into a car, drove him to a forest with his head inside a black plastic bag, tied him to a tree in an isolated spot, pointed a revolver at him, and threatened him with death if he published a report on an illegal land sale.

Academic freedom is respected.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble peacefully, and the Government respects this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occur frequently.

Police used force to disperse demonstrators on several occasions during the year, resulting in serious injuries and at least one death (see Sections 1.a. and 1.c.). In May MST protesters heading to Parana state's capital of Curitiba were stopped by police 20 kilometers outside the city. They said that they were planning to protest peacefully in front of government buildings. However, the same week, MST groups had invaded government buildings in several other capital cities. Parana state police say that they acted to prevent the same occurrence in their state. The confrontation between police and protesters which took place when the bus was stopped resulted in one death (see Section 1.a.). Human Rights Watch reported that police killed another demonstrator—Jose Marlucio da Silva—in Recife on July 25 during a similar protest, but no further information was available about this case.

Between May and October, MST protests increased, culminating in promises of about \$2 billion (4 billion reais) in federal government money for agrarian reform. Protests in the capital, Brasilia, united large numbers of protesters. In August joint protests by the MST and Contag (Confederacao Nacional de Trabalhadores na Agricultura) drew over 12,000 participants. Demonstrations in Brasilia were usually concurrent with smaller, local protests and invasions, of anywhere between 200 and 5,000 landless activists. Many protests occurred without incident, with notable exceptions. The MST's new method of forcibly invading public buildings is an example

of increasing aggressiveness on the part of the movement. The movement also invaded President Cardoso's family farm.

However, the number of land invasions decreased sharply during the year. According to INCRA (the government agency charged with implementing land reform), there were only 226 invasions by landless militants through November, compared with 438 in 1999 and 427 in 1998, indicating that the large amount of land that has been distributed by the Federal Government may have had some effect in decreasing landless movement activity. The CPT noted that the number of conflicts between landless movement members, landowners, and police increased over the last 3 years, but that the number of resulting deaths declined from 47 in 1998 to 24 in 1999. The total number of MST activists killed during the year was not yet available.

In April a group of indigenous leaders organized a march in protest of the ceremonies to mark the 500-year anniversary of Portuguese arrival; however, police using riot gear prevented the protesters from entering the main square, and fired rubber bullets into the crowd. Human rights observers criticized the police for injuring over 30 persons, arresting over 100 others, and limiting free assembly and lawful protests. The then-president of FUNAI, Carlos Frederico Mares, resigned in protest over this incident.

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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. There is no favored or state religion. All faiths are free to establish places of worship, train clergy, and proselytize, although the Government controls entry into indigenous lands.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement, except entry into protected indigenous areas, nor are there any restrictions on emigration or return. However, a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent, whether or not the marriage still is in effect.

In 1997 the Government passed legislation with provisions for asylum and refugee status intended to conform to the principles of the 1951 U. N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provides first asylum and cooperates with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There were 2,632 refugees in the country, mostly from Angola and other African countries, but also including persons from Iran, Bosnia, and Kosovo. During the year, a total of 445 persons were granted refugee status, out of a total of 590 requests.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. 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 age 70 and over.

Women have full political rights under the Constitution and are increasingly active in politics and government; however, they are underrepresented in both fields. Cultural, institutional, and financial barriers continue to limit women's participation in political life. The number of female candidates for office in the 1998 national elections roughly doubled, compared with the number in 1994, according to statistics released by the Supreme Electoral Court (TSE). Women constituted approximately 12 percent of the total candidates. However, their representation in the national Congress decreased from 7.6 percent to 6.1 percent after the 1998 elections; 29 women were elected to the 513-seat Chamber of Deputies, and 5 to the 81-seat Senate. In August the TSE reported that for the first time, a majority of registered voters were female (50.45 percent). The TSE also reported that there were over 70,000 female candidates for the nationwide municipal elections. At 18.3 percent of the total number of candidates, this was a 40 percent increase from the last municipal elections in 1996. There were no female members of Cabinet. In December the first woman assumed her seat on the country's highest court, the Supreme Federal Tribunal.

Diverse ethnic and racial groups, including indigenous persons, while free to participate politically, are not represented in government and politics in proportion to their numbers in the general population.

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

A number of local and national human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Federal officials generally are cooperative and responsive to their views. Federal and state officials, due to insufficient resources, in many instances actively solicit the aid and cooperation of NGO's in addressing human rights problems. However, on occasion human rights monitors are threatened and harassed due to their efforts to identify and take action against human rights abusers, especially members of the state police forces (see Section 1.a.).

AI reported in February that its office in Sao Paulo received a bomb threat from an extreme right group (see Section 5). The police investigated the threats and no bomb was found. AI noted that gay rights groups had received similar threats, that a member of their staff was attacked during the year, and that police had not acted to protect their staff or other human rights activists from violent attacks. The head of the AI office continued to receive threats by mail and phone. As a result, AI closed their Sao Paulo office and moved to Porto Alegre. At year's end, the Sao Paulo State Civil police still were investigating. The AI office in Porto Alegre also continued to receive threats, which the Rio Grande do Sul police were investigating.

Henri des Roziers, a Dominican monk, attorney, and human rights activist in Xinguara, Para, received several death threats during the year for his assistance to victims of violence in the region and his direct involvement in criticizing cases of torture, police abuse, and forced labor. Des Roziers, along with the Ministry of Labor's Office to Combat Forced Labor, was instrumental in freeing 462 rural workers from forced labor in 1999. In May Pastoral Land Commission President Dom Tomas Balduino announced that des Roziers' name appeared on a "hit list" of 10 names of activists who were to be murdered, drawn up by large landowners. In July Des Roziers and the CPT criticized the use of torture in the Xinguara city police station. Para state civil police chief Joao Moraes responded with a personal attack on des Roziers and accused him of involvement in the murder of a landowner.

Established in April 1997, the Justice Ministry's National Secretariat of Human Rights oversees implementation of a 1996 action plan to address human rights abuses. The Secretariat also administers or sponsors programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous people, the elderly, and the disabled. In May the Government appointed Gilbert Saboia, former ambassador to Sweden, as the new Secretary for Human Rights.

In May U.N. High Commissioner for Human Rights Mary Robinson visited the country and met with a full range of NGO's as well government officials. Robinson commended the Government for allowing her to investigate and for its recognition of its human rights problems and commitment to seek a solution. Robinson declared that impunity from prosecution is the greatest human rights problem, linking it to killings, torture, racial and sexual discrimination, and the exploitation of children. She also stated that the U.N. might open an investigation into the repression of indigenous rights during an April commemoration of the 500th anniversary of the European arrival to the country (see Sections 2.b and 5).

In December the Government released the second National Report on Human Rights, independently prepared by the Center for the Study of Violence at the University of Sao Paulo. The National Secretariat for Human Rights, the University of Sao Paulo, and the U.N. Development Program co-sponsored the preparation of the report. A comprehensive account of the human rights situation in each state, it provides information on health, education, public security, and labor conditions and a list of human rights monitors and advocates in each state.

In 1999 two attorneys working for a human rights group in Aracatuba, Sao Paulo state, received death threats after successfully prosecuting three police officers who were convicted of torture and homicide. The attorneys asked for police protection and refused to leave the city. Police investigations into the threats produced no results; the attorneys continued their work but without police protection.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 to be a problem. The International Labor Organization (ILO) notes that important differences in wages affect women and blacks, particularly in rural areas. A 1997 law provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimina-

tion based on sex, religion, age, or ethnic origin. Several persons have been charged with racism since the law's enactment, mostly for the use of racial slurs.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and AI have in the past 7 years documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers.

In September Jose Eduardo do Bernardes da Silva, a member of AI, and Roberto de Jesus, president of the Gay, Lesbian, and Bisexual Pride Association, both received bombs in the mail with swastikas and the word revenge printed on the package (see Section 4).

Homosexual activist groups reported that 130 gay, lesbian, and transgender persons were murdered during the year, compared to 169 in 1999 and 116 in 1998. However, data compiled by activist organizations and claims that violence against homosexuals is increasing cannot be confirmed, because the motives for the crimes are not always clear. Information from the GGB and other homosexual rights groups clearly indicates that transvestite prostitutes, the most visible homosexual group, are at a greater risk of violence than other homosexuals. Police routinely extort money from transvestites and often beat or kill those who fail to cooperate. Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. In past years, flagrant abuses by the police in the states of Alagoas and Bahia have been reported.

The Secretariat of State Security of Rio de Janeiro state, in partnership with NGO's, continued to operate a hot line to receive complaints of violence or other crimes against homosexuals. The Secretariat also continued to operate a hot line for complaints of prejudice, discrimination, or other crimes based on race, ethnicity, color, religion, or national origin. The offices in police headquarters where both hot lines are located also offered professional counseling to victims of such offenses. Respect for human rights and sensitivity to the problems of minorities and the poor are included in police training in Rio de Janeiro. In April a new Institute for Public Security was created to reform police organization, recruitment, and training; it also aims to improve police performance on human rights.

*Women.*—The most pervasive violations of women's rights involved sexual and domestic violence, which are both widespread and vastly underreported. There is a high incidence of physical abuse of women. Most major cities and towns have established special police offices to deal with crimes of domestic or sexual violence against women; there are over 250 such offices. However, reporting crimes and receiving help continue to be a problem for women living in remote areas who must sometimes travel great distances to the nearest special precinct. For example, the large but sparsely populated states of Acre and Roraima each have only one such precinct. Though the numbers of reported cases of the most common crimes rose through much of the 1990's, they generally have leveled since 1998. For example, in the state of Sao Paulo, there were 1,731 reported cases of rape in the first 11 months of the year, compared with 1,833 for all of 1999. In the Federal District, the number of reported cases of rape declined slightly to 371 during the year, compared with 416 cases in 1999. The annual number of cases of harmful physical assault against women reported to the police in the state of Rio de Janeiro nearly doubled from 1991 to 1999, to 34,831, and the number of rapes reported increased from 952 to 1,455. Both state authorities and women's rights activists agree that a large number of rapes go unreported. According to a 1998 study of two middle-class neighborhoods in Rio de Janeiro, only 10 percent of women who had suffered violent attacks reported them to the police. The Sao Paulo Center for Assistance to Female Victims of Sexual Violence reported that 400 women sought the center's intervention in rape cases after receiving no help from the police in 1998. In Bahia there were 7,751 complaints about violence to women filed with the police Delegate for the Protection of Women during the first 7 months of the year, an increase of 40 percent over the same period in 1999.

Trafficking in women for the purpose of forced prostitution is also a serious problem (see Section 6.f.).

Each state Secretariat for Public Security runs "women's stations" (*delegacia da mulher*). However, the quality and availability of services provided varies widely, especially in isolated areas. These offices are intended to provide the following services for victims of domestic violence: psychological counseling; a "shelter home" for victims of extremely serious abuses who have no place to go; hospital treatment for rape victims, including abortion (up to 12 weeks of pregnancy) and treatment for

HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts.

The penalties for rape vary from 8 to 10 years in prison.

A domestic violence offender in a case that does not involve a serious offense and carries penalties of less than 1 year's imprisonment may receive alternative sentencing with no jail term, according to the Latin American and Caribbean Committee for the Defense of Women's Rights.

Men who commit crimes against women, including sexual assault and murder, are unlikely to be brought to trial and courts still are reluctant to prosecute and convict men who claim that they attacked their wives for infidelity. A 1999 study by an academic at the Catholic Pontifical University of Sao Paulo indicates that 70 percent of criminal complaints regarding domestic violence against women are suspended without a conclusion. Only 2 percent of criminal complaints of violence against women lead to convictions. In 1998 the National Movement for Human Rights reported that female murder victims were 30 times more likely to be killed by current or former husbands or lovers than by others.

The Constitution prohibits discrimination based on sex in employment or pay and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely is enforced. According to statistics released in 1998 by the International Confederation of Independent Unions, women are paid, on average, 44 percent less than men. According to government statistics released in 1998, women with a high-school education or less earn, on average, 63 percent of the salaries earned by men with the same level of education. Black women earned on average 26 percent of a white male's salary. A 1998 study by a sociologist showed that women who started working in positions in which they earned twice the minimum wage advanced in pay after 10 years to a wage of seven times the minimum wage. Men starting in the same positions earned 2.6 times the minimum wage and advanced to a wage of 10.9 times the minimum wage after 10 years. A Ministry of Labor survey reported that the average starting salary for high-school-educated women in Sao Paulo was one-third less than the average starting salary for high school educated men. According to the Ministry of Labor and Employment (MLE), Centers for the Prevention of Workplace Discrimination have been established in 16 states. These centers, which are housed in regional bureaus of the Ministry, promote programs to end discrimination in the workplace and cultivate partnerships with other organizations that combat discrimination. The centers also serve as clearing-houses for allegations of discrimination.

In response to the Maternity Leave Law, some employers seek sterilization certificates from female job applicants or try to avoid hiring women of childbearing age. A 1995 law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates. Employers who violate 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.

*Children.*—Millions of children continue to suffer from the poverty afflicting their families, must work to survive, and fail to get an education. Schooling is free and compulsory until the age of 14 and is available in all parts of the country. The education system does not exclude any groups; however, 1.1 million children between 7 and 14 years of age did not attend school in 1999.

In September UNICEF reported that nearly 100,000 children die each year before their first birthday, almost half during the peri-natal period. While the national infant mortality rate declined from 50.8 in 1989 to 36.1 per 1,000 live births in 1998, in some states, such as Alagoas, it reached 72 per 1,000. Some municipalities have a rate of 110 per 1,000.

According to a UNICEF report, over 20 million children and adolescents, or almost 35 percent, live in poverty. About 2.9 million children under the age of 15, including over 375,000 between 5 and 9 years old, continue to work (see Section 6.c.). Many work together with their parents, most often in agriculture. Many other children beg on city streets. According to the most recent government figures released in November 1999 and confirmed by UNICEF, the number of children working has decreased steadily since 1993, while the number of children attending school has increased. However, the overall level of child labor remained roughly the same between 1998 and 1999, because progress in reducing it was hampered by a rise in agricultural production that year. The Federal Government administers a total of 33 programs under 5 separate ministries aimed at combating child labor. The Ministry of Social Security and Assistance's program for the eradication of child labor provided supplemental income or "school scholarships" to the families of 390,000 children in rural and urban areas who, in return, must attend school. The federal scholarship program is supplemented by a number of similar programs administered

by municipalities and NGO's. Some of the largest such programs are in Campinas (Sao Paulo state), Belo Horizonte (Minas Gerais), and Olinda (Pernambuco).

There are no reliable figures on the number of street children. Some are homeless, but the majority return home at night. Disparities in the numbers of children living on the street reported by children's rights activists indicate the difficulty of arriving at accurate estimates. The Center for the Defense of Children and Adolescents (CEDECA) in Belem, in the state of Para, reported that in 1998 a total of 2,328 youths under the age of 18, or 0.5 percent of the youth population, spent their days in the streets. CEDECA estimated that 97 of those youths lived permanently in the streets.

NGO's in Rio de Janeiro have made 28 shelters available for homeless children, but some children prefer the freedom and drugs that street life offers. Drug use, particularly glue sniffing and crack, is increasingly prevalent among street children. NGO's report that extreme poverty at home or sexual abuse by fathers and step-fathers are the principal reasons that many children choose to live in the streets. 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 within their own homes. A study by the Brazilian Geography and Statistics Institute (IBGE) reported that 47 percent of Sao Paulo street children come from families that earn less than \$200 (350 reais) per month. Nationwide, the Inter-American Development Bank estimates that some 30 million children live below the poverty line and increasingly come from households headed by women.

In the October 1999 case of a child prostitution ring in Maranhao that involved police, judicial authorities, and elected officials, charges were brought against the owner of a bar, a local judge, a high-ranking police official, and two attorneys. At year's end, trials had not yet taken place.

Youth are both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent are due to causes such as homicide, suicide, and traffic accidents, which reduces by at least 3 years the average life expectancy of men. During the first half of the year, 50 young people died as a result of manslaughter in the state of Sao Paulo alone. Approximately 85 percent were victims of commercial sexual exploitation and ranged from 12 to 17 years of age. Homicide is the leading cause of death for children aged 10 to 14, and only 1.9 percent of murderers are serving prison sentences.

A 1999 study by the Information Network for Violence, Exploitation, and Sexual Abuse of Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, states that government efforts to combat sexual exploitation of children need to be better tailored and coordinated. It cites 40 separate programs operated by national and international NGO's, some in partnership with Government entities, but notes that most of the programs face shortfalls in resources and personnel. In association with the Ministry of Justice, the NGO ABRAPIA has since 1997 operated a telephone hot line to register complaints of sexual abuse against children and adolescents. ABRAPIA also administers the "SOS-child" program in Rio de Janeiro state that registers complaints of domestic abuse against children and provides medical and social assistance.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. The CECRIA report indicated that patterns of sexual exploitation of children correspond to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centers around brothels that cater to mining settlements. In the large urban centers, children, principally girls, who leave home because of abuse or sexual exploitation often prostitute themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children is prevalent, and involves networks of travel agents, hotel workers, taxi drivers, and others who actively recruit children and even traffic them outside the country. Child prostitution also is developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. In port cities, crews from cargo vessels are a primary clientele. The report notes that although trafficking develops in part to meet the demands of foreigners, and that the local population sustains it.

Trafficking in children for the purpose of forced prostitution is a serious problem (see Section 6.f.).

*People with Disabilities.*—The Constitution contains several provisions for the disabled, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that work with the disabled report that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates that all businesses with over 200 employees must reserve 2 percent of their vacancies for the disabled. In 1999 labor officials in the Federal District launched an information

campaign to encourage firms to comply with the law and warned that noncomplying firms could be fined.

The National Human Rights Secretariat sponsored a "City for Everyone" program in cooperation with municipal governments and national and international NGO's that focused on providing better access for the disabled to public areas and public transport. However, little progress in the elimination of architectural barriers to the disabled has been made. In 1999 Rio de Janeiro state mandated that bus companies must make a specific number of buses on certain routes accessible to wheelchair users within 3 months. By September only 14 public buses—of thousands in the city—had been adapted for wheelchair use. No intercity or interstate buses had been modified. The city of Niteroi put in service 10 vans specifically for the use of disabled persons, but the supply of this service lagged behind the rising demand.

In June the Chamber of Deputies' Human Rights Commission released the report of its investigation into the conditions of mental hospitals and asylums. The report cited many examples of understaffed and poorly administered hospitals, substandard living conditions for many patients, and severely overcrowded and unclean facilities.

According to the Federal Ministry of Education, in 1997 only 5 percent of the estimated 6 million school-age children with disabilities had access to specialized instruction. Throughout the country, 43 percent of school districts offer special instruction for disabled children. In the nine states in the northeast part of the country, only 24 percent of school districts offer special instruction.

*Indigenous People.*—The Constitution grants the indigenous population of approximately 330,000 broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government has fallen short of securing these rights for indigenous people in practice. The Government estimates that over half live in poverty in communities whose traditional ways of life are threatened on a variety of fronts. The number of indigenous citizens receiving food assistance in the southern states of Sao Paulo and Rio Grande do Sul exceeded the total indigenous population at the time of the 1995 census in those states. The greatest number of beneficiaries reside in Mato Grosso do Sul state, where 42,000 persons of a total indigenous population of 45,300 receive food assistance.

Indigenous leaders and activists complain that indigenous people have 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 are serious problems on indigenous land.

The National Indian Foundation (FUNAI) is responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it is organized into 52 regions with directors appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. By January the Government had completed demarcation of roughly 79 percent of the total area of identified indigenous territory. During the year, the Government demarcated 4 more areas totaling about 360 square miles. Of the 563 identified indigenous areas, 313 have reached the final registration stage, and 250 remain to be demarcated legally. Identified indigenous territory comprises 11 percent of the national territory.

In December 1998, the Federal Government issued a decree recognizing the original boundaries of the Raposa Serra do Sol indigenous area in the Amazonian state of Roraima, overturning a controversial decision made in 1996 by the Justice Minister to limit and alter the shape of the reserve. In 1999 a state court suspended the demarcation process after local landowners and economic interests filed a suit requesting that action. In 1999 Roraima Senator Mozarildo Cavalcanti presented a bill canceling the 1998 decree. In September the bill was given an unfavorable report in committee. Indigenous activists claim that the Government's failure to allocate resources and complete the demarcation was a political concession to local economic and political interests who then were able to influence the state court. The demarcation of Raposa Serra do Sol has been pending since 1992.

The Constitution provides indigenous people with the exclusive use of the soil, waters, and minerals on indigenous lands, subject to congressional authorization. In granting such authorization, the Constitution stipulates that the views of the affected communities must be considered and that the communities also must "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands has been pending before the Congress since 1995. The Catholic Church-affiliated Indigenous Missionary Council (CIMI) criticized the regulations within the legislation that would provide for indigenous groups' approval of mining

concessions and their participation in the profits from mining, on the grounds that they do not address sufficiently the constitutional rights of indigenous people.

In 1999 landowners brought a civil action to the Supreme Court against a lower court ruling in Bahia that restored demarcated land of the Caramuru-Catarina Paraguacu reserve to the Pataxo Ha-Ha-Hae tribe. At year's end, no trial date had been set. Other attempts were made to negotiate between the tribe and landowners.

The Government estimates that 208 of the 563 identified indigenous lands are used illegally by nonindigenous persons for mining, logging, and agriculture. Non-indigenous invaders destroy the environment and wildlife, spread disease, and provoke violent confrontations. FUNAI admits that it does not have the necessary resources to protect indigenous lands from encroachment.

Due partly to the Government's failure to provide adequate medical care as required by law, indigenous people have suffered epidemics of malaria, measles, and tuberculosis. According to the chief of FUNAI's medical department, 60 percent of the indigenous population suffer from a chronic disease such as tuberculosis, malaria, or hepatitis. In certain areas of the Amazon region, up to 80 percent of the population are affected. Illegal mining in the Amazon has led to the doubling of the incidence of malaria in the 1994-98 period. FUNAI estimates that 75 percent of the affected population is indigenous. The infant mortality rate among the Yanomami in 1997 was 13 percent, while infant mortality among nonindigenous residents in the area was only 1.5 percent. According to health workers' unions, poor working conditions and lack of resources from the Government make it very difficult for health workers to travel into indigenous areas to provide sufficient medical care.

FUNAI also has been unable to provide mandated health care and other basic services. Hoping to improve the level of health care provided to indigenous people, in 1999 the Government transferred that responsibility from FUNAI to the Ministry of Health.

According to the Pro-Yanomami Committee, in 1999 FUNASA, the Government's health agency, issued a report showing that in 1998, 279 indigenous persons died in Roraima, 180 of them Yanomami. Most of the deaths were caused by acute respiratory infection, malaria, and diarrhea. Almost half died without having received medical assistance.

In September after Federal prosecutors complained about the slowness of the police investigation, the National Council for Human Rights formed a committee to oversee the investigation of the May 1998 killing of Xucuru Chief Francisco "Xicao" de Assis Araujo. Araujo defended the land claims of his tribe, whose lands are being encroached upon by ranchers in his home state of Pernambuco.

No progress was made in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by Federal Deputy Dr. Roland Lavigne in exchange for votes during his 1994 electoral campaign. Women were reluctant to have children due to the general level of poverty in the community, and campaign workers allegedly convinced them that sterilization was the only effective form of birth control. Pataxo leaders claim that the sterilizations were a deliberate program of genocide intended to eliminate their tribe and free their land for farmers who illegally occupy the Pataxo reserve.

In April during the celebration of the 500th anniversary of the arrival of the Portuguese in Porto Seguro (Bahia), police used rubber bullets and tear gas, in violently blocking 2,000 indigenous marchers from entering the city. Indigenous leaders were seeking damages in civil court at year's end. In May U.N. High Commissioner for Human Rights Mary Robinson raised the police's actions with President Cardoso. The President denied any use of excessive force, and in July a Federal Police investigation reached the same conclusion. However, the Federal Public Prosecutor has challenged these findings. FUNAI president Mares resigned in protest over the treatment of indigenous people during the event.

In May an Acre state judge sentenced former Acre governor Orleir Cameli, his family's firm, and his partner Abraao Candido da Silva, to pay about \$5 million (10 million reais) to the Ashaninka-Kampa indigenous group for material and moral damage caused by the extraction of mahogany and cedar from 1981 to 1987. The firm extracted 2,478 cubic meters of wood from the area. Cameli announced he would appeal the decision.

In September CIMI reported that FUNAI was going to press charges against Jordao, Acre city councilman Auton Farias, and two others for the murder of an indigenous person in Tarauaca, Acre.

*Religious Minorities.*—Leaders in the Jewish community expressed concern over the continued appearance of anti-Semitic material on Internet websites compiled by neo-Nazi groups.

Amnesty International reported that Eduardo Bernardes da Silva, a worker with the NGO's office in Sao Paulo, received a suspicious package at his home on Sep-

tember 5. He opened it partially and found a device covered in swastikas, thought to have been sent by a neo-Nazi group. Police confirmed that it was a bomb and destroyed it in a controlled explosion.

The next day a similar bomb was sent to the offices of the Associacao da Parada GLBT, an association which organizes an annual Gay Pride March, reportedly by the same group.

In September a neo-Nazi group sent letters to two prominent Sao Paulo human rights commission members, Renato Simoes and Italo Cardoso, threatening to "exterminate" gays, Jews, black people and nordestinos (people from the impoverished northeast of the country), as well as those seeking to protect their rights. The letter said that the group intended to target a number of human rights organizations on or around the country's September 7 Independence Day, including Tortura Nunca Mais (No More Torture), Action by Christians against Torture, AI, and gay and lesbian groups.

*National/Racial/Ethnic Minorities.*—Although racial discrimination has been illegal since 1951, darker-skinned citizens say that they frequently encounter discrimination. Legislation in force since 1989 specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. A 1997 amendment to this law added prohibitions against, and 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. Several examples of such cases include that of a seamstress pressing charges against her employer, a stagehand bringing charges against a theatrical director, and a customer pressing charges against an employee of a video rental store. All instances involved use of racial slurs when insults were uttered; at year's end, none had completed the trial process.

In Sao Paulo human rights activists continued to express concern because of discrimination against blacks and poor persons from the northeast by neo-Nazi groups in the south. Many of these groups maintain Web sites that espouse violence. The Sao Paulo State Assembly Human Rights Committee criticized several hate groups who maintain such Web sites and asked the Public Ministry for an investigation. One man, who maintained a Web site that called for the eviction from Sao Paulo of all emigrants from northeastern part of the country, was accused of crimes under the Racism Law. Instead of going to trial, he chose to accept guilt for the crime and did community service as punishment. At year's end, other similar cases still were being investigated.

ISER research noted a disproportionately higher rate of police killings of Afro-Brazilians. Persons of color are five times more likely to be shot or killed in the course of a law enforcement action than are persons who are perceived to be white.

In September two members of the Sao Paulo State Assembly's Human Rights Committee received threatening letters stating that the group which identifies itself as "raca pura" (pure race) is "fighting for an end to homosexuals, blacks, and northeasterners." Sao Paulo's State Secretary of Security ordered an investigation into both incidents. The investigations were ongoing at year's end.

In addition to these violent threats against minorities, research conducted this year at the Federal University of Rio de Janeiro reconfirmed that Afro-Brazilians experience lower standards of living than whites. Cross-checking data from the IBGE, the national statistics office, and the U.N. Human Development Index showed that Afro-Brazilians have lower salaries, life expectancies (62 years instead of 69 years), and educational standards (79 percent literacy rates, compared with 92 percent) than whites. Afro-Brazilians and mulattos still are clearly disadvantaged economically and socially throughout the country. In Sao Paulo, for example, the rate of unemployment among blacks is 22.7 percent, while the rate among nonblacks is 16.1 percent. Nonblacks in Sao Paulo have an average monthly income of about \$523 (1,005 reais), while blacks average only \$267 (512 reais) a month.

According to research carried out by the Inter-Union Department of Statistics and Socioeconomic Studies in 1998, Afro-Brazilians had higher rates of unemployment, earned less, and enjoyed less job stability than white Brazilians in each of the five largest metropolitan regions where data were gathered. In and around Salvador, Bahia, which has the highest percentage of Afro-Brazilians of any metropolitan region, unemployment among Afro-Brazilians was 45 percent higher than among whites (the difference among heads of household was 75 percent). In Sao Paulo, Afro-Brazilian unemployment was 41 percent higher than among whites and 64 percent higher among heads of households. Afro-Brazilian men earned on average between 62 percent and 70 percent of the average salary earned by white men in the five regions surveyed. Afro-Brazilian women earned on average between 33.5 and 47 percent of the average salary of a white man. Illiteracy also is a problem: 32 per-

cent of blacks are illiterate, compared with 14 percent of whites. Blacks are less likely than whites to be enrolled in institutes of higher education.

A much higher percentage of blacks are convicted by courts than whites, according to professor Sergio Adorno of the University of Sao Paulo's Nucleus for the Study of Violence. Adorno analyzed 500 criminal cases judged in Sao Paulo courts in 1990 and found that 60 percent of whites able to afford their own lawyers were acquitted, while only 27 percent of blacks who hired lawyers were found not guilty. Ignacio Cano, a researcher at the Sociological Institute of Religious Studies in Rio de Janeiro, found strong evidence of racial bias by the police in the use of lethal force against residents of color in Rio de Janeiro from 1993 to 1996 and in Sao Paulo from 1996 to 1999. According to Cano, Afro-Brazilians were three times as likely as whites to suffer death or injury from police gunfire.

In 1997 the Federal Government's Interministerial Working Group for the Valorization of the Black Population issued 29 recommendations, including the creation of affirmative action programs for university admissions and government hiring. The group is charged with proposing public policies to increase the participation and access of Afro-Brazilians in society. The National Secretariat for Human Rights adopted some of the group's recommendations in the national human rights program, which now contains, as a specific goal, the development of affirmative actions programs to increase access for Afro-Brazilians to professional schools and universities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provides for representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed. Registration can be contested with the MLE by other unions which 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 will not register the union and it remains for union organizers to challenge the decision in the labor courts.

The 1988 Constitution freed workers to organize new unions out of old ones without prior authorization of the Government; however, it retained many other provisions of the old labor code. One such provision is a restriction known 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), criticize the retention of unicidade. The Cardoso administration submitted a constitutional amendment to Congress that would end unicidade, but at year's end, it still had not come to a vote due to disagreement over the proposal.

In practice a number of competing unions have been allowed to exist among the thousands of local unions. However, these do not represent the norm, and the MLE and the courts actively enforce the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force voluntarily pays union dues, but nearly twice that percentage is charged a mandatory union tax and also is represented in collective bargaining. The Ministry of Labor estimates that there are over 16,000 unions. Local unions are able to associate with state federations and national confederations in their professional category. Unions are obliged by law to represent all workers in a professional category and geographical area, regardless of membership status.

Although the law makes no provision for central labor organizations that include multiple categories of workers, four major groups have emerged: the Workers' Unitary Central (CUT), the Forca Sindical (FS), the Workers' General Confederation (CGT), and the Social Democratic Union (SDS). Labor centrals are not provided for in the Labor Code, and centrals do not have legal standing to represent professional categories of workers in collective bargaining.

Unions and their leadership are independent of the Government and of the political parties. The leadership of major unions is distinct and independent from that of the political parties. The major union centrals tend to share links to various left-of-center political parties. In some instances, unions and centrals form alliances with political parties and social movements to advocate or carry out protest acts regarding specific issues. One of the largest such acts in recent years was the "March of 100,000," which brought 75,000 representatives of the CUT, the National Confed-

eration of Agricultural Workers, the MST, and 30 other organizations to Brasilia in 1999 to protest government policies.

The Constitution provides workers with the right to strike (except for the military, police, and firemen). Enabling legislation passed in 1989 stipulates that essential services must remain in operation during a strike and that workers must notify employers at least 48 hours before beginning a walkout. Congress has yet to pass the complementary legislation establishing legal protection for strikes in the public sector; however, in practice the Government has not interfered with the right of public workers to strike. The Constitution prohibits government interference in labor unions, but provides that "abuse" of the right to strike (such as not maintaining essential services, or failure to end a strike after a labor court decision) is punishable by law. Employers are prohibited from firing workers or hiring substitute workers during a strike, with certain exceptions, provided that the strike is not ruled abusive. If a union follows the laws regarding strikes, which were eased in the 1988 Constitution, the labor courts generally do not rule that the strikes are abusive.

The number of strikes has diminished in recent years. According to the Inter-union Department of Socioeconomic Studies and Statistics (DIEESE), there were approximately 550 strikes in 1999, compared with 1,250 strikes recorded in 1996. In the city of Sao Paulo and the surrounding region, which covers the country's industrial center, data from the regional labor court showed that there were 84 strikes during the year, the lowest number in a decade. Public sector strikes received the most attention in the media during the year. Public sector unions that struck during the year include municipal transit workers, customs agents, public teachers, state university workers, and various categories of federal employees. In addition major strikes in the private sector included the metalworkers of Sao Paulo, bank workers, truck drivers, and longshoremen in the port of Santos.

On May 18 in Sao Paulo, military police fired tear gas and rubber bullets into a crowd of striking workers from a coalition of 25 unions linked to the CUT. More than 20 strikers were injured. Strikers reacted by throwing rocks and cans at police, injuring five policemen (see Section 1.c.). The ICFTU reported that police fired on striking workers at a government-run company in Brasilia in December 1999, killing public sector worker Jose Ferreira da Silva and injuring 20 others. Although police said that they used only tear gas and rubber bullets, live ammunition was found in Ferreira's body.

According to leaders of the National Confederation of Agricultural Workers, an organized campaign exists in the state of Para to assassinate rural labor leaders. In November labor organizer Jose Dutra da Costa was shot and killed in Rondon do Para. Costa served as director for land reform policy of the local union, which was involved in taking over disputed land for the settlement of rural workers. In June in the state of Para, Jeronimo Alves de Amorim was convicted of ordering the 1991 murder of the head of a local workers' union, Expedito Ribiero de Souza (see Section 1.a.).

Unions and centrals freely affiliate with international trade union organizations; the CUT, FS, and CGT are affiliated with the ICFTU.

The ICFTU reports that intimidation and killings of rural labor union organizers and their agents also continues to be a problem.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize. Businesses and unions are working to expand and improve mechanisms of collective bargaining. However, due to the highly detailed labor code, the scope of issues legally subject to collective bargaining is narrow. The labor court system exercises normative power with regard to the settlement of labor disputes, discouraging direct negotiation. The Cardoso administration made expansion of collective bargaining one of its major objectives in the labor sector. However, the Labor Ministry has yet to introduce legislation on the issue due to fierce resistance by labor unions, which view such government efforts as an attempt to make negotiable collective bargaining rights provided for by the Constitution.

Collective bargaining is widespread in the formal sector. More than 16,700 negotiated contracts were registered with the Labor Ministry in 1999, a significant increase from the 10,000 contracts registered 2 years earlier. To be binding, all collective bargaining agreements must be reported to the Labor Ministry within 8 days of their conclusion. In spite of the prevalence of collective bargaining, unincidence and the inability of new unions to compete with existing unions limit the effectiveness of negotiations and the bargaining power of unions. As a result, DIEESE reports that only half of the collective bargaining agreements it tracked in 1999 contained wage increases that kept pace with inflation.

In 1995 the Cardoso administration promulgated a provisional measure that simultaneously ended inflation indexing of wages, allowed for mediation of wage settlements if the parties involved so desired, and provided greater latitude for collec-

tive bargaining. Previously the labor court and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. Although labor court decisions still set wages in many disputes, parties now may choose mediation as an alternative. Free mediation services are provided by the Ministry of Labor and the Public Ministry of Labor, and unions and employers also may choose a private mediator from a registry kept by the Labor Ministry.

The Constitution incorporates a provision from the old labor code that prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nonetheless, dismissals take place, with those dismissed required to resort to a usually lengthy court process for relief. In general the authorities do not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances are slow and cumbersome. At year's end, over 2.5 million complaints were languishing in the labor court system, where they may remain unresolved for 5 to 10 years. According to the Supreme Labor Court, over 2 million complaints have been registered in labor courts each year during the past 5 years.

The Government is attempting to reduce this backlog and increase the efficiency of the courts. Legislation approved in January enables cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing. Another recent law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. In the past, according to union officials, as many as 95 percent of cases in courts took between 5 to 10 years to resolve.

Labor law applies equally in the free trade zones. The unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are weaker vis-à-vis employers than unions in the major industrial centers.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor; however, there continue to be credible reports of compulsory labor in many parts of the country. The 2000 ICFTU report states that forced laborers number in the hundreds of thousands, but there are no government sources to confirm such estimates. Forced labor is most common in agricultural activities in the rural north and center-west of the country, in logging, charcoal production, herding, and agriculture. The majority of cases occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult. Laborers often are forced to work in inhuman conditions, many times under the watch of armed guards, to pay off debt that they incurred on the trip or at the worksite. In many cases, overseers or owners of farms withhold pay from migrant laborers and use force to retain and intimidate them.

According to the Penal Code, violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. Legislation passed in December 1988 better defined penalties for those who recruit workers under fraudulent claims, withhold documents or salaries, or force workers to labor against their will to repay debt.

Government officials and labor activists say that widespread poverty, low levels of education, and lack of awareness of workers' rights greatly complicate efforts to combat forced labor. Enforcement also has been hampered by the remoteness of the areas in which forced labor is practiced and the difficulty of arriving in these areas without alerting those using illegal labor. Additionally, freed workers often are afraid to testify against those who recruited and supervised them and are unable to remain in the region in order to testify. Thus the authorities often have found it difficult to identify and prosecute the owners of farms or businesses that exploit forced labor. In its March report, the ILO Committee of Experts noted that when convictions do occur, usually only the third party recruiters are punished and the owners of the large estates who employ illegal labor are not sanctioned. Beginning in 1996, the Government may expropriate and use in land reform programs land on which slave labor is found. However, land owners must be compensated for these lands. In one case, the Government paid the owner of the Flor da Mata ranch in the Para state for lands expropriated for use in land reform in 1998. The Pastoral Land Commission objected to the amount paid to the ranch owner, stating that it was well above what the owner paid for the land, thereby contributing to a sense of impunity and rewarding those who allow their lands to be used for forced labor. There is proposed legislation in Congress that would allow land to be confiscated with no payment to land owners.

Federal Government efforts to eliminate forced labor are coordinated by the Executive Group to Combat Forced Labor (GERTRAF), which was established in 1995. The Ministry of Labor coordinates GERTRAF, which includes representatives from seven different ministries. The enforcement arm of GERTRAF is the Special Group for Mobile Inspection (SETIF), which works in conjunction with Federal Police. Dur-

ing 1995–98, the teams carried out more than 500 raids. They reached over 140,000 persons working under varying conditions approximating forced labor. Over this period, SETIF freed nearly 800 workers from slave-like conditions and helped in the prosecution and incarceration of 13 persons. SETIF conducted 123 raids and freed 639 workers from forced labor in 1999—more than in any previous year. Through the first 6 months of the year, the group freed 418 workers from 45 ranches and levied over \$200,000 (370,000 reais) in fines. Although 33 minors under 16 years of age were found working on ranches during raids by SETIF during the year, none of them were laboring in conditions of forced or compulsory labor.

In its largest single operation to date, SETIF and the Federal Police freed 135 workers from slave-like conditions on a cotton ranch in the state of Mato Grosso in April. The team responded to a complaint made by 15 workers who had escaped from the ranch in February and reported working 7 days a week among rats and snakes, sleeping on the ground, and paying high prices for spoiled food. Workers had been recruited from cities in the region with promises of good housing, food, and salaries; instead, they were forced to work at gunpoint in inhuman conditions. The authorities are investigating at least eight other ranches in the region for suspected use of forced labor.

GERTRAF receives allegations of forced labor from labor unions and other organizations. The CUT initiated a 24-hour hot line with a toll-free number for reporting instances of forced labor in 1997. However, the most important supplier of information to GERTRAF is the Catholic Church's Pastoral Land Commission, which tracks instances of forced labor and carries out campaigns to educate workers about the risks of forced labor. The CPT reported 16 instances of forced labor involving 1,099 workers in 10 states in 1999. Over one-half of these forced laborers were found in the state of Para. The 1999 figures represented a reversal of a 3-year trend of declining instances of forced labor. The CPT reported that, due to the hidden and complex nature of forced labor, these figures significantly understate the actual number of workers trapped in conditions of forced and compulsory labor in the country.

The law also bars forced and bonded labor by children. Although the MLE found no children working as forced laborers during the year, in 1999 the Pastoral Land Commission reported 25 children under the age of 16 found working in conditions of forced labor. In March the ILO reported that observers have cited over 3,000 girls who were subject to debt servitude and forced into prostitution in the state of Rondonia.

Trafficking in women and children for the purpose of forced prostitution also is a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law restricts work that may be performed by children; however, child labor is a serious problem. The Government amended the Constitution in December 1998 to raise the minimum working age from 14 to 16 years and the age at which apprenticeships may begin from 12 to 14 years. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthful, dangerous, or morally harmful conditions. However, the authorities rarely enforce additional legal restrictions intended to protect working minors under age 18, and the problem is widespread.

The law requires permission of the parents for minors to work as apprentices, and working minors must attend school through the primary grades. Schooling is universal, free, and compulsory until the age of 15.

The rate of school enrollment of children aged 7 to 14 increased from 89.1 percent in 1994 to 95.5 percent in 1999. Rates of repetition have dropped from 30.2 percent in 1995 to 23.4 percent in 1997. Despite these promising numbers, repetition rates and the poor quality of public schools continued to be problems. Fully 40 percent of first-graders repeat the year, and in a number of states first-graders are more likely to fail than to pass. Even with increased enrollment, there still were 1.1 million children between the ages of 7 and 14 who are not attending school.

Although still a serious problem, the incidence of child labor has dropped significantly in recent years. According to government figures, the number of working children fell by nearly 24 percent between 1995 and 1999. Over the same period, the rate of participation in the work force of children from the ages of 5 to 14 dropped from 11 to 9 percent. Nevertheless, more than 2.9 million children under the age of 15 continued to work in 1999. Frequent accidents, unhealthy working conditions, and squalor are common.

A 1999 Labor Ministry report indicates that children work in about 100 rural and urban activities. Common rural activities include fishing, mining, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children are found in shoe shining, trash picking, street peddling, prostitution, and drug trafficking. According to the Government's Institute

for Applied Economic Research, there are around 400,000 children between the ages of 10 to 16 working as domestic servants.

The Ministry of Labor and Employment is responsible for inspecting worksites to enforce child labor laws. These efforts are guided regionally by special Nuclei for the Eradication of Child Labor, which gather data and develop plans for child labor inspection. Nearly all inspections of children in the workplace are driven by allegations and tips from workers, teachers, unions, NGO's, and the media. Approximately 3,200 inspectors investigated 52,000 establishments in 1999. Inspectors lack authority to investigate allegations of child labor in informal sector establishments, where most child labor is found. In all cases but the worst forms, inspectors attempt to reach an alternative solution before applying fines of around \$225 (400 reais) per violation. Inspectors also may refer cases to prosecutors from the Public Ministry of Labor, who are able to levy fines upwards of \$1,670 (3,000 reais) and investigate cases in the informal sector.

Fighting child labor is a priority of the Cardoso administration. The Ministry of Social Security and Assistance's Program for the Eradication of Child Labor (PETI) provides cash stipends to low-income families who keep their children in school and out of work activities. Because the public school day lasts only 4 hours, PETI also offers complementary cultural and instructional activities to children during non-school hours to keep them from situations in which they could be put to work. PETI has grown from assisting about 3,700 children in 2 states in 1996 to over 390,000 in nearly all 26 states by the end of the year. The program started with children involved in hazardous activities in rural areas, such as charcoal production and sisal, sugar cane, and citrus harvesting. Other rural activities recently included in the program are work in cotton and tobacco fields, flour mills, salt mines, horticulture, weaving, fishing, wood mills, brick production, ceramics, and mining. The PETI program also is growing rapidly in urban activities such as trash picking, shoe shining, and street peddling.

Social programs to end child labor have been matched by investments in programs to support greater access to education. The Ministry of Education's (MEC) Program for the Guarantee of a Minimum Income (PGRM) provides low-income families with modest monthly stipends—typically ranging from \$6–8 (10–15 reais) per child—provided that all children aged 7–14 in the household are attending school. The poorest 20 percent of municipalities in each state are eligible to enroll in the program and receive funds from the Federal Government. MEC estimates that the PGRM has benefited 1 million children in more than 500,000 families. The Government supplements this program with a decentralized school lunch program that serves 37 million children across the country.

In December 1999, the Government ratified ILO Convention 138 dealing with the minimum age for work and Convention 182 on the eradication of the worst forms of child labor. At year's end, Convention 138 had not taken effect due to technical issues concerning the minimum working age that the Government submitted to the ILO. In March the Ministry of Labor established a tripartite commission to produce a list of worst forms of child labor to be eradicated in the country. At year's end, the commission produced a list of over 80 such activities, which includes 27 new activities that are to be banned for all workers under 18 years of age. These new activities include cutting sugar cane, applying pesticides, and driving tractors.

Civil organizations have played a fundamental role in reducing the number of children working. One of the organizations coordinating the diverse efforts has been the National Forum for the Prevention and Eradication of Child Labor. The Forum was established in 1994 with funding from the ILO and UNICEF, and has chapters in every state and over 40 institutional members from government, unions, employers, and NGO's. The ILO's Program on the Elimination of Child Labor (IPEC) sponsors programs in footwear, charcoal, citrus, sisal, and domestic service. IPEC programs have focused on capacity building, awareness raising, research promotion, and the incorporation of income generating schemes and monitoring systems into child labor prevention programs. UNICEF supports various NGO's, and began a campaign in to remove child laborers from working in trash dumps.

The ABRINQ Foundation for Children's Rights has negotiated agreements and garnered commitments from producers in footwear, citrus, automobile production, charcoal, and other industries to investigate and eradicate instances of child labor. ABRINQ also awards mayors who invest in prochild policies with its Child-Friendly Mayor award. Through a labeling program and awareness-raising activities, the footwear industry's Pro-Child Institute has helped to reduce significantly instances of child labor in footwear production in the state of Sao Paulo. Other important NGO's include Projeto POMMAR, which works most closely with children at risk of becoming prostitutes in the Northeast, and Missao Crianca (Mission Child), a new NGO that seeks to disseminate its methodology for minimum income programs to

end child labor. All major union centrals have made firm commitments to eradicate child labor by reporting violations and implementing programs to educate union members about the hazards of child labor. The News Agency for Children's Rights closely tracks stories in the media, publishes studies, and gives awards to media outlets that effectively cover children's rights.

*e. Acceptable Conditions of Work.*—The minimum wage is approximately \$77 (151 reais) a month, which is not sufficient to provide a decent standard of living for workers and their families. A 1999 study by DIEESE concluded that the minimum wage was only about one-seventh of the salary necessary to support a family of four in the Sao Paulo metropolitan area. Many workers outside the regulated economy, particularly in the rural northeast, earn less than the minimum wage. At year's end, Congress was considering legislation that would increase the minimum wage.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The Constitution provides for pay and fringe benefits and establishes protections for agricultural and domestic workers, although not all provisions are enforced. All workers in the formal sector receive overtime pay for work beyond 44 hours, and there are prohibitions against excessive use of overtime.

Unsafe working conditions are prevalent throughout the country. Fundacentro, part of the Ministry of Labor, sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry has insufficient resources for adequate inspection and enforcement of these standards. If a worker has a problem in the workplace and has trouble getting relief directly from an employer, the worker or union can file a claim with the regional labor court, although in practice this frequently is a cumbersome, protracted process.

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 do occur, and legal recourse usually requires years for resolution. Individual workers do not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers may express such concerns to the internal committee, which would conduct 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, including women and children, in, to, and from the country is a problem. Penalties for trafficking in persons include fines and prison sentences ranging from 1 to 12 years, depending on the severity of the abuse and whether violence, threats, or fraud were employed.

Trafficking within the country often takes the form of rural workers being transported long distances to work on remote ranches in slave-like conditions (see Section 6.c.).

Trafficking of women and children for purposes of prostitution, both within the country and to other countries is also a problem.

Laws on trafficking are enforced by the Federal Police. Officials reported that it is very difficult to capture and incarcerate traffickers because they must be caught in the act of traveling with the victims. Further, most women who leave the country with traffickers do so willingly, and only upon arrival do they realize the severe conditions under which they are forced to work and live. Officials also report that fear of reprisals keeps a number of victims from seeking police intervention or from testifying against those who persecuted them.

The U.N. reported that over 75,000 Brazilian women work as prostitutes in Europe. According to the report, most of the women come from the states of Goias, Rio de Janeiro, and Sao Paulo. During the year, the Federal Police arrested several suspects in the capital of Brasilia, Goias, Rio de Janeiro, and Ceara involved in recruiting women to work as prostitutes abroad, mainly in Spain, but also in Portugal, Japan, and Israel. Police officials stated that in most cases women who are recruited by trafficking organizations understand that they are to work as prostitutes, but that they are lied to about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or as household servants. Upon arrival victims of trafficking often have their passports confiscated and are forced to prostitute themselves and live in virtual confinement. As in other types of trafficking, perpetrators use debt and isolation to control the victims.

In March the federal police arrested one person who was connected to a trafficking ring that brought women from the state of Goias to Spain. The person allegedly received \$130 (234 reais) in return for each woman transported from the bus station to the airport. Four women were with the suspect at the time of arrest.

In June the Federal Police uncovered a travel agency in Goias which had recruited and sent at least 20 women to work as prostitutes in Spain. At year's end,

the two agency owners were in prison awaiting trial; the recruiters were still at large.

The Government took a number of steps over the year to combat child prostitution. To call attention to the problem and foster initiatives to fight it, May 18 was declared the first National Day against the Sexual Exploitation of Children and Adolescents. Legislation enacted in June lengthened the maximum sentence to 10 years in prison for those who manage brothels that exploit child prostitutes. In July the Government announced the first national pilot program to combat child prostitution. The program has a budget of a \$556,000 (1 million reais) but was geared to begin its outreach operations at the end of the year.

## CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. On November 27, voters elected a majority of 172 Liberal Party members to the 301-seat Parliament, and Jean Chretien began his third term as prime minister. The judiciary is independent.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are observed strictly, and the courts punish violators.

Canada has a highly developed, market-based economy. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means for dealing with individual instances of abuse; however, there were problems in some areas. Problems include discrimination against aboriginals, the disabled, and women. There was an increase in anti-Semitic 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 is a growing problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings.

Four Toronto policemen were charged with manslaughter for the death of a suspect whom they beat while taking him into custody outside a convenience store in August. Accounts of the incident vary as to what actually transpired at the time.

The Government made concerted efforts to resolve issues stemming from two controversial shooting deaths in previous years. In May an Alberta provincial court judge issued a fatality inquiry report on the causes of a 1998 incident in which a Royal Canadian Mounted Police (RCMP) officer shot a woman and her child on the Tsuu T'ina reservation. The report's 18 key recommendations focused on the needs of indigenous people and improvements in police and family services procedures, and other measures to prevent similar situations from occurring. A court upheld the 1999 conviction for criminal negligence of a police officer in the 1995 shooting death of an aboriginal activist at Ipperwash, Ontario.

*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 observes these prohibitions in practice; however, there were isolated incidents of police mistreating suspects. In February the RCMP began an inquiry into the deaths of four native men, two of whom were found frozen on the outskirts of Saskatoon and two of whom were found dead in or near their homes. Another native man filed charges against two Saskatoon police officers who allegedly picked him up in a police cruiser, drove him to the same spot outside the city where the two other men were found dead, and left him in sub-zero temperatures. At year's end, the two officers were awaiting trial in this case. In October Saskatchewan's Justice Minister ordered a public inquest into the events that led to the death of one of the men who had been found dead in his home, due to a drug overdose, shortly after being released from police custody. The provincial public prosecutions office already had decided that there was no basis for pressing criminal charges in relation to this case.

The military continued to receive complaints from women serving in the armed forces who charge that they are subject to sexual abuse, harassment, and discrimi-

nation. A new armed forces grievance board that is independent of the military chain of command began operations in June. In addition, other mechanisms established by the Government to address such complaints, including the Advisory Board on Canadian Forces Gender Integration and Employment Equity and an Ombudsman in the Department of National Defense, continue to operate. During the year, the Ombudsman received 14 discrimination complaints, 128 harassment complaints, and 2 sexual assault complaints.

In 1999 Toronto police continued a review of procedures following public complaints about the use of strip searches and body cavity searches in several routine arrests. The review determined that there were isolated incidents of unnecessary searches. Toronto police authorities determined that the policy still was appropriate and during the year provided further guidance to officers about when such searches are appropriate.

In June the RCMP Public Complaints Commission completed its hearings on the controversy surrounding the use of pepper spray to break up demonstrations at the November 1997 Asia Pacific Economic Cooperation (APEC) conference in Vancouver (see Section 2.b.). The Commission had not issued a report by year's end.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors. However, the Ombudsman Ontario remains concerned about "recurring evidence" presented in three separate investigations concluded during the year that there is a "systemic problem in the lack of consistent application of official policy and standing order across correctional facilities in the province's prison system." The Ombudsman investigated a variety of problems during the year, including segregation procedures, use of force, and lost property. The Ombudsman also made recommendations concerning standards of hygiene, health care, and fair and reasonable treatment to the Ministry of Correctional Services; the Ombudsman reports that the Ministry has begun to make improvements in these areas.

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

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and vigorously enforces 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 can appeal in certain limited circumstances.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

*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 respects these rights in practice; however, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The Court ruled that the benefits of limiting hate speech and promoting equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Journalists occasionally are banned from reporting some specific details of court cases until a trial is concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoy wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven 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 communications by telephone that expose a person or group to hatred or contempt. Human rights groups are exploring the possibility of extending this prohibition to the Internet, arguing that the Internet should be considered "telephonic communications" and therefore covered under the Human Rights Act. Between October and December, the Human Rights Tribunal heard two complaints that the Ernst Zundel web site, known for its Holocaust-denial material, incites hatred against Jews. The case was ongoing at year's end.

On September 13, an unidentified gunman shot and wounded Michel Auger, the organized crime reporter for *Le Journal de Montreal*. The previous day, Auger had published an article regarding activities of motorcycle gangs. Police linked the Hell's Angels motorcycle gang to the shooting and their investigation continued at year's end. They arrested two men in connection with the attack, including one man for making and supplying the gun. The Auger shooting led to a debate between those who advocated additional powers for law enforcement to go after gangs (up to and including suspension of the Charter of Rights and Freedoms) and those who argued that preserving civil liberties outweighed the risk of isolated incidents of gang violence. The question divided the journalistic community, which relies heavily upon civil liberty provisions. After the Auger shooting, approximately 20,000 persons (mostly journalists) demonstrated on the streets of Montreal, to urge police to do a better job in combating gang violence. Following Auger's recovery and return to work, the numbers of those calling for additional police powers dwindled.

Academic freedom is respected.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government generally respects them in practice.

In June the RCMP Complaints Commission completed hearings begun in 1998 investigating the use of pepper spray by RCMP officers to break up small crowds of protesters at the APEC leaders meeting in Vancouver in November 1997. The issues covered by the Commission included whether actions taken by police were justified by the security risk and whether political considerations such as direct influence from senior political leaders played a role in determining the level of RCMP response to protesters' actions. The Commission had not issued a report at year's end.

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

The province of Saskatchewan permits prayer and bible readings in school as provided for in the Saskatchewan Act, which forms part of the provincial constitution. However, in July 1999, a one-person Board of Inquiry ruled that it was discriminatory to require recitation of the Lord's Prayer in Saskatoon public schools. As a result of the ruling, the Lord's Prayer is not recited in Saskatoon public schools. At year's end, the Saskatoon School Board and complainants continued to search for a compromise.

Public funding for Roman Catholic schools—or separate schools—is constitutionally protected in the country's original four provinces, but the policy has been challenged in recent years. In 1999 the U.N. Human Rights Committee found that the province of Ontario had failed to provide equal and effective protection against discrimination.

In March 1999, the government-mandated Proulx task force submitted a report on religion in schools to the Quebec National Assembly. Its 14 recommendations included abolishing Catholic and Protestant status for public schools and creating secular public schools within which religion would be studied from a cultural perspective. Publicly funded support services would be provided for students of all faiths. School boards' responses are due to the Quebec government by July 1, 2001.

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

The law provides for the granting of asylum and refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extends first asylum. Canada is a resettlement country, and the Government projected approving between 36,600 and 40,800 claims for refugee status during the year.

During the summer of 1999, 599 Chinese arrived illegally by boat off the coast of British Columbia and sought refugee status. Because the majority of the early refugee claimants who were released failed to appear for their hearings, a much larger percentage of refugee claimants from subsequent boats were remanded into custody pending their refugee hearings. A total of 586 persons made refugee claims. The Government has granted refugee status to 25 migrants and has denied 458 claims. Of these, 330 have been returned to China. Other claims were abandoned

or withdrawn. A total of 43 adults remained in custody at year's end. A total of 115 children were placed in the care of the Ministry of Children and Families.

There was no information publicly available on the results of a formal inquiry into a Chinese refugee's claims that prison officers had beaten him in December 1999.

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

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

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

On November 27, national parliamentary elections were held, in which the Liberal Party won a majority with 172 of 301 seats. The Canadian Alliance (conservative) won 66 seats, the Bloc Quebecois (separatist) won 38 seats, the New Democratic Party (liberal) won 13 seats, and the Progressive Conservative Party (conservative) won 12 seats. Jean Chretien of the Liberal Party entered his third term as Prime Minister.

A significant body of opinion in the Province of Quebec (represented by the party that currently governs the province) continues to maintain that Quebec has the right to withdraw from the Confederation if that decision proves to be the democratically expressed will of the people of Quebec. However, in June the Federal Government enacted legislation to clarify its role in a possible secession attempt by a province. The new law is in response to a 1998 Supreme Court reference (an answer to a question referred to the Court by the federal government), which stipulated that the Federal Government would be obliged to negotiate Quebec's separation in good faith if a clear majority of Quebecers voted to separate on the basis of a clearly phrased question. The new legislation stipulates that the House of Commons must determine whether any future secession referendum question proposed by a province is clear, and whether any subsequent majority vote is large enough to obligate the Government to negotiate secession. The legislation was controversial with Quebec's provincial government, which then drafted and, on May 30, passed Bill 99 to underline the right of the Quebecois to self-determination and to decide the political regime and legal status of Quebec.

There are no laws limiting the participation of women in political life; however, they are underrepresented in government and politics. Following the November elections, in the Parliament, 62 of 301 members in the House of Commons are women, and 33 of 105 senators are women. Women hold 10 seats in the 36person Cabinet. In November 1999, a woman was appointed for the first time as Chief Justice of the Supreme Court.

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

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Religion, 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, religion, sex, age, or mental or physical disability. These rights generally are respected in practice; however, there were some complaints of discrimination in this multicultural society.

*Women.*—The law prohibits violence against women, including spousal abuse; however, it remained a problem. The number of sexual assault crimes have declined over the past 5 years; however, in 1999 a total of 23,872 cases of sexual assault were reported. 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.

The Government's publication on family violence statistics indicates that an estimated 8 percent of women (and 7 percent of men) who were married or living in a common-law relationship during the previous 5-year period experienced some type of violence committed by their partner on at least one occasion. The economic costs of violence against women are estimated to be \$2.7 billion (Can \$4.2 billion). Services available to abused women have increased significantly over the past 2 decades. For example, the number of shelters for abused women across the country increased from 75 in 1979 to 470 in 1998.

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 enforces this provision. Women continued to complain of harassment in the armed forces, and the Government has set up mechanisms to try to resolve complaints (see Section 1.c.).

Women are well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. In October 1999, the Federal Government agreed to a settlement following an unsuccessful appeal of a 1998 Human Rights Tribunal ruling that the Government must pay back wages to workers in underpaid positions (predominantly female) under the concept of equal pay for work of equal value. Payment was made and finalized this year.

Women have marriage and property rights equal to those of men. Women head over 85 percent of single-parent households.

Prostitution is legal, but pimping and operating, being found in, or working in a brothel are not. Living (wholly or partially) on the earnings of prostitution is illegal. Communicating in public for the purpose of prostitution (solicitation) is also illegal, but is considered a lesser offense than the other offenses related to prostitution.

Women were trafficked for purposes of commercial sexual exploitation (see Section 6.f.).

*Children.*—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Education is free through grade

13 and is compulsory nationwide through age 15 or 16, depending on the province. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There is no societal pattern of abuse of children. Changes to the law in 1997 strengthened tools to combat child prostitution and prohibited female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health.

A group of 1,500 citizens, who as orphans were diagnosed falsely as retarded and psychotic, and illegally interned in mental institutions during the 1930's, 1940's, and 1950's, continued to seek compensation from the provincial and Federal governments. They charge that the Government is responsible for the abuse that they received in the Catholic Church-run institutions, including beatings, electric shock treatment, and sexual abuse. In 1999 they formed a committee to seek restitution for the abuse suffered. In May the Catholic Church announced that it would participate in a "compassion fund," but would not issue a formal apology or admit fault in the cases. Quebec Premier Bouchard reiterated his government's compensation offer of approximately \$650 (C\$1,000) each to the victims, but the committee representing the orphans rejected the offer as insufficient.

Children were trafficked for purposes of commercial sexual exploitation (see Sections 6.c., 6.d., and 6.f.).

*People with Disabilities.*—There is no legal discrimination against disabled persons in employment, education, or in the provision of other state services. Nevertheless, the Government continued to receive numerous complaints regarding societal discrimination against disabled persons and has instituted programs to discourage such discrimination. Disabled persons are underrepresented in the work force; they make up 2.7 percent of the federally regulated private sector work force, while those capable of working total 6.5 percent of the population. The law mandates access to buildings for persons with disabilities, and for the most part the Government enforces these provisions.

In 1999 the province of Alberta announced that it would compensate the nearly 500 surviving persons who were sterilized without their consent under a policy aimed at residents of mental institutions. More than 2,000 Albertans were sterilized between 1928 and 1972 under the Alberta Sterilization Act, which was repealed in June 1972. By the end of the year, the Alberta Government had settled all outstanding sterilization claims.

The law provides a variety of protections and rights for the disabled and specifically prohibits discrimination against disabled persons 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 disabled persons, unless it constitutes an undue hardship, and mandates access to buildings for the disabled. The Government has instituted programs to help the disabled join the work force, but they continued to experience more difficulties in getting and retaining employment than those without disabilities.

*Indigenous People.*—The treatment of aboriginal people continued to be one of the most important human rights problems facing the country. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunt-

ing rights, and alleged harassment by police continued to be sources of tension on reserves. Aboriginal people remain 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 native groups in eastern Canada form the basis for the Federal Government's policies there, but the antiquated language and uncertain intent have resulted in extensive legal challenges to the Government's interpretation of treaty rights. Native groups in the west that never signed historical treaties continue to claim land and resources, and many continue to seek legal resolution of outstanding issues. As a result, the evolution of the Federal Government's policy toward aboriginal rights, particularly land claims, has been linked closely to legal challenges, including 45 Supreme Court decisions.

In 1998 the Government established the Aboriginal Action Plan, a "long-term, broad-based" policy approach to promote the quality of life of aboriginal people and promote self-sufficiency. According to the Department of Indian and Northern Affairs, the Government spent \$4.7 billion (Can \$7 billion) on aboriginal programs during the year, which included the Aboriginal Action Plan and spending from 12 different departments. Since 1999

16 specific claims have been settled, and 70 comprehensive land claims have been negotiated across the country. After years of negotiations, the Federal and provincial governments concluded a modern day treaty with the Nisga'a people of British Columbia, who received claim to tribal lands, fishing and timber rights, limited self-government, and other economic benefits. The Federal Government continued to be involved in self-government negotiations with over 350 First Nations, and 6 agreements were in final or advanced stages of negotiations at year's end. Professional development and fiscal accountability projects further support aboriginal self-governance.

In response to court decisions over the past few years, the Government continues to work at resolving a variety of issues, including fishing rights in Atlantic Canada. Disputes over native fishing rights in Atlantic Canada continued after a 1999 Supreme Court ruling on the Marshall case which interpreted centuries-old treaties to allow First Nations to earn a moderate livelihood from natural resources, in compliance with government regulations that promote conservation and protect others who depend on the same resource. The Federal Government negotiated interim fishing agreements with 29 of the 34 native communities in Atlantic Canada, but the Burnt Church First Nation in New Brunswick and 4 other native communities in Nova Scotia have refused to sign the interim agreements and have been accused of contravening federal regulations by fishing for lobster out-of-season. Other test cases that involve aboriginals being tried on charges of illegally harvesting timber on Crown land continued in the court systems in New Brunswick and Nova Scotia. Court cases also continue in Quebec over timber resources.

During the year, the Federal and British Columbia governments concluded a treaty with the Nisga'a people who live in northwestern British Columbia. The treaty gave the Nisga'a control over 765 square miles of tribal lands, a cash settlement, fishing and timber-cutting rights, and certain rights of self-government. The treaty ended a range of special tax breaks and other benefits available under previous arrangements. The treaty was ratified by the Nisga'a people in November 1998 and by the provincial legislature in the spring of 1999. It was debated and passed by Parliament in December 1999. Although the British Columbia legislature ratified the treaty, two groups expressed their intention to challenge the treaty in court. These legal challenges include one from a political party that contends that the treaty should have been submitted to a referendum and one from the Gitanyow, an aboriginal band located near the Nisga'a, who contend that the treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a. At year's end, neither case had made legal progress.

The Stoney reserve west of Calgary gave up control of its finances to federal Indian Affairs officials in 1997, following widespread allegations of political corruption, financial mismanagement, sexual assaults, and abuses connected with social service agencies. After a 2-year probe, the RCMP concluded that no criminal charges would be made, and that instead, the problem with reserve finances was managerial in nature. Stoney Reserve corrected the situation and put its finances back in order. Of the 611 First Nations, 25 have their finances managed by a private accounting firm.

Quebec's Indian people remain overwhelmingly opposed to separation from Canada and deeply distrust the separatist government of the province. Despite the Quebec Prime Minister's recent overtures to the leaders of the Cree and Inuit nations,

surveys indicate that most of Quebec's 60,000 Indians would favor partition of the province in the event of Quebec's separation from Canada. Indian leaders maintain that a sovereign Quebec would treat Indians as another ethnic minority instead of as sovereign nations within the territory of the province. To address these sentiments and respond to a pending lawsuit, in 1998 the Quebec government agreed with the Cree and Mohawk tribes to initiate negotiations regarding longstanding grievances over timber resources, public rights of way on tribal lands, and management of development in the James Bay region. In March 1999, Quebec gave the Mohawks increased fiscal rights and powers. In June 1999, the first summit in 11 years between Quebec's First Nations and the provincial government was held to establish a permanent policy forum to resolve ongoing issues. During 1999 the Government focused on negotiations over a commission to set up a political entity (Nunavik) for Quebec's Inuit. The commission, in accordance with an agreement signed in November 1999, has Inuit, Quebec, and federal representatives. In September the James Bay Crees challenged the authority of the Nunavik Commission on the basis of overlapping land claims. In December the Commission postponed delivering its final report to the federal and provincial governments, stating that it needed more time and formally requested an extension of its mandate to the end of March 2001.

In May 1999, representatives of the Government of Newfoundland and Labrador, the Federal Government, and the Labrador Inuit Association initialed a land claims agreement for the Inuit. The plan provides for land, water rights, self-government, and an economic development plan that includes sharing revenues from subsurface developments. The Federal Government negotiated interim fishing agreements with 29 of the 34 native communities in Atlantic Canada, but the Burnt Church First Nation in New Brunswick and 4 other native communities in Nova Scotia have refused to sign. As a result, they have been accused of contravening federal regulations by fishing for lobster out-of-season.

In September 1999, the Supreme Court overturned the conviction of Nova Scotia aboriginal Donald Marshall for catching and selling fish eels out of season and without a license. In doing so, the court ruled that the 18th century treaties between the aboriginals and the British Crown gave the First Nations rights not accommodated by modern fishery regulations. The Court ruled that the Federal Government must give treaty beneficiaries access to the fisheries sufficient to enable them to earn a moderate livelihood. The Court also found that this right is subject to regulation and subsequently reemphasized this point in a separate explanation of its decision. There was some violence against aboriginals by nonaboriginals, following aboriginal efforts to exercise their new rights by trapping lobsters in October prior to the normal season. The Supreme Court's decision to interpret the 18th century treaties liberally has encouraged aboriginals involved in a number of court cases seeking access to economic benefits from natural resources such as logging, mining, and energy.

The Supreme Court's clarification of the Marshall case ruled out the possibility of aboriginals using the case to gain commercial rights in the forestry sector. However, test cases now are progressing through the court systems in New Brunswick and Nova Scotia that involve aboriginals being tried on charges of illegally harvesting timber on Crown land.

*Religious Minorities.*—The League for Human Rights of B'nai Brith in Canada reported that there were 267 incidents of anti-Semitism in 1999—an 11 percent increase from 1998. An increase in acts of vandalism contributed to the rise in incidents, in contrast to a steady decrease in previous years. The League continues to express concern over the growth of anti-Semitic activity on the Internet. In October the Human Rights Tribunal examined the activities of one such web site (see Section 2.a.).

In October and November, Jews were subjected to a wave of attacks that community leaders said was unprecedented. During a 6 week period beginning on October 1, about 45 anti-Jewish incidents—arson, assaults, verbal abuse and death threats—were recorded. Many Jewish leaders complained about what they described as a lukewarm response from government officials at all levels.

*National/Racial/Ethnic Minorities.*—The narrow defeat of the 1995 Quebec sovereignty referendum left unresolved the concerns of French-speaking Quebecers about their minority status in Canada, while sharpening the concerns of English-speaking Quebecers about their minority status. The separatist Parti Quebecois provincial government of Quebec stated that it would hold another sovereignty referendum only under winning conditions. The Supreme Court ruled in August 1998 that a unilateral declaration of independence would be illegal, but that the Federal Government and other provinces would be obligated to negotiate Quebec's separa-

tion if a clear majority of Quebecers voted to change their relationship with Canada on the basis of a clearly phrased referendum question (see Section 3).

Some English-speaking and native groups in Quebec assert the right to keep parts of Quebec in Canada in the event that Quebec declares independence. Despite personal meetings and other overtures by Quebec's Prime Minister to aboriginals and the English-speaking community, both groups remain distrustful of the separatist government of Quebec. Many members of these communities fear that their rights would be infringed by a sovereign Quebec.

The Constitution protects the linguistic and cultural rights of minorities. Despite Canada's federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of Canada generally must live and work in the language of the majority.

In January the Supreme Court upheld an appeal by francophones who had been denied a French-language school in their community and forced to bus their children 57 minutes to another school. The Court ruled that the percentage of French language students in the community who potentially could attend a French language school (rather than the actual number of students who desired to attend one) met the requirements to establish such a school, and therefore the community was obligated constitutionally to provide one. In making its ruling, the Supreme Court stated that the Appeals Court erred (among other reasons) by not considering which services would best encourage the flourishing and preservation of the French language minority.

Quebec's language law restricts access to publicly funded, English language schools through grade 11 to children whose parents were educated in English in Canada and to short-term residents. The Quebec courts heard two cases challenging this law. In June the Montreal Superior Court heard a suit brought against the Quebec government by 10 francophone families for the right to send their children to anglophone schools. Another case was brought by a group whose native tongue is neither French nor English, who alleged that the law restricting English-language schools to children whose parents were educated in English in Canada is discriminatory. At year's end, both cases were pending.

In October three coffeehouses with English names were firebombed, allegedly in an attempt to force them to change their names to French. A man associated with a group that aims to eliminate the use of English in Quebec was arrested for the bombings and was denied bail prior to his trial.

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, continues to protest restrictions placed on English-language use. In 1997 the Quebec provincial government reestablished a French-language inspection office that had been abolished in 1993. Quebec's language law also stipulates that French is the working language of most businesses and must predominate in bilingual commercial signage. However, in October 1999, a Quebec court judge struck down a key section of the province's language law that requires French lettering to be twice as large as English lettering on commercial signs, stating that French is no longer in jeopardy in Quebec. In April the Quebec Superior Court overturned the lower court decision, ruling that the lower court erred by finding that the Quebec government had the burden of proving that French is still in jeopardy in Quebec. The Superior Court stated that the lower court should have found that the defendant had the burden of proving that French is no longer in jeopardy in Quebec. The defendant has appealed the Superior Court ruling. English speakers also expressed concern over the increasing scarceness of health services and public schooling in their language.

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

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Except for members of the armed forces, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Trade unions are independent of the Government. Of the civilian labor force, approximately 29.5 percent is unionized.

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 enforces this provision.

Labor action, including strikes, occurred throughout the country during the year. Notable strikes included: Inside Workers strike by clerical staff, social-work staff,

tax collectors, health inspectors, and public nurses in the city of Toronto, nurse and federal prison guard strikes in Alberta, and forestry and hotel worker strikes in British Columbia.

Unions are free to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations, which vary from province to province, for some public sector workers providing essential services.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

All labor unions have full access to mediation, arbitration, and the judicial system.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Forced labor, including that performed by children, is illegal, and it generally does not occur; however, women and children were trafficked for the purposes of commercial sexual exploitation (see Sections 5, 6.d, and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor legislation varies from province to province. The Federal Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions are enforced effectively through inspections conducted by the federal and provincial labor ministries. Education is compulsory nationwide through age 15 or 16, depending upon the province.

The Government prohibits forced and bonded child labor and generally enforces this prohibition effectively; however, children were trafficked for purposes of commercial sexual exploitation (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—Standard work hours vary from province to province, but in all provinces the limit is 40 or 48 a week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and range from \$3.65 to \$4.77 (Can \$5.50 to Can \$7.20) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. The minimum wage does not provide a decent standard of living for a worker and family. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with “reasonable cause” to refuse dangerous work and to remove themselves from hazardous work conditions.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, the Government prosecutes such offenses as violations of immigration policies. The Government is conducting a legislative review of the Immigration Act and introduced legislation that specifically makes trafficking an offense punishable by fine or imprisonment, but the Senate had not passed it by year’s end. The country is primarily a transit and destination point for trafficking in persons. There have been several widely reported cases of smuggling and trafficking, including hundreds of Chinese who arrived illegally by ship in British Columbia during the summer of 1999 (see Section 2.d.).

Press reports indicate that over the past 10 years almost 15,000 Chinese have entered Canada illegally. Many of these illegal immigrants have paid large sums to be smuggled to Canada and are indentured to their traffickers upon arrival. Almost all work at lower than minimum wage and use most of their salaries to pay down their debt at usurious interest rates. The traffickers (snakeheads) use violence to ensure that their clients pay and that they do not inform the police.

Asian women and girls who are smuggled into Canada often are forced into the sex trade. Traffickers use intimidation and violence, as well as the illegal immigrants’ inability to speak English, to keep these victims from running away or informing the police.

Vancouver and Toronto serve as hubs for organized crime groups that deal in trafficking in persons, including trafficking for prostitution. East Asian crime groups have targeted Canada, and Vancouver in particular, because of lax immigration laws, benefits available to immigrants, and the proximity to the U.S. border.

Canadian and Honduran officials are investigating the ongoing problem of Honduran youths being smuggled into Canada who are being used by Honduran drug traffickers to sell drugs. In January Canadian authorities arrested dozens of small-time Central American drug dealers including many Honduran minors. In February the press reported that Honduran authorities were working to repatriate those minors.

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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 establishes institutional limits on popular rule. President Ricardo Lagos, of the Socialist Party, won a close runoff election on January 16 against center-right candidate Joaquin Lavín of the Alliance for Chile coalition. Lagos took office on March 11, succeeding Christian Democrat Eduardo Frei. International and domestic observers found both the 1999 election and the subsequent runoff to be free and fair. Both the current and former presidents are members of the "Concertación" coalition of political parties. The National Congress consists of 120 deputies and 49 senators; this includes nine designated senators plus two former presidents who are senators-for-life. The government coalition of four major parties controls the lower house and, following the suspension of two conservative senators including former president Augusto Pinochet, counts a slim majority in the Senate. Continued turnover in the court system has reduced the number and influence of military-era appointees over the constitutionally independent judicial branch to the point that there was very little influence in the administration of justice.

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 comprises military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order, safety and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations—although formally under the jurisdiction of the Ministry of Defense, which prepares their budgets—are under operational control of the Ministry of Interior. Some members of the police committed human rights abuses.

The export-led free-market economy experienced its first recession after 15 consecutive years of expansion in 1999, when the economy experienced a decline of 1.1 percent in real terms with inflation at 2.3 percent. Economic growth for the year was 5.4 percent with inflation of 4.75 percent. Copper remained the most important export; salmon, forest products, fresh fruit, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange. Unemployment stood at 8.3 percent at the end of the year. From 1987 to 1998, the percentage of the population living below the poverty line decreased from 45 to 21.7 percent. Annual per capita gross domestic product was approximately \$4,700.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious involved a death in police custody, police mistreatment, use of excessive force, and physical abuse in jails and prisons. The due process rights of detainees were not always respected. Discrimination and violence against women and children continue to be problems. Indigenous people remain marginalized. Despite ongoing attempts to change the labor code, limitations on fundamental worker rights persisted. Child labor is a problem in the informal economy.

During the year, the Government, primarily the judiciary, took significant steps to allow for the investigation of human rights abuses committed during the former military government, and to bring those accountable in certain cases to justice. The bulk of the human rights abuses under the military regime occurred between 1973 and 1978, although a number took place after this period. In its August 1999 ruling to uphold the removal of former President Augusto Pinochet's congressional immunity, the Supreme Court ruled that Chile's Amnesty Law could only be applied after a crime had been investigated and prosecuted. At year's end, the Defense Ministry-sponsored Human Rights Roundtable Dialog, comprising members of the armed services, religious groups, human rights groups, and NGOs, was preparing to make public information on the fate of some of the persons who were killed or who disappeared while in official custody during the Pinochet regime; however, military authorities continued during the year to resist a full accounting of the fate of those

who were killed and disappeared. Unlike in previous years, the judiciary appeared not to interfere in or stifle cases against alleged human rights abusers.

In October 1998, the United Kingdom detained Pinochet pending resolution of a Spanish extradition request on charges of genocide and murder. On March 2, after considerable legal action and a series of court rulings, Home Secretary Jack Straw denied Spain's request on the basis of medical exams indicating that Pinochet was unfit mentally and physically to defend himself against the charges. On March 3, the British authorities freed Pinochet and he returned to Chile. He faces charges in over 200 cases, including charges of aggravated homicide, in Chilean courts. The investigation of the most prominent of these cases, known as the "Caravan of Death" case, led to the petition to remove Pinochet's immunity and the subsequent effort to indict him.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings or other extrajudicial killings during the year; however, one person died under yet to be explained circumstances while in police custody.

On January 5, Carlos Antonio Millaman Munoz was detained on charges of aggravated robbery. According to the Corporation for the Promotion and Defense of Human Rights (CODEPU), on January 6, the authorities permitted family members and a friend a visit at the headquarters of the Investigative Police in the Santiago suburb of La Florida. Millaman was reportedly in bad physical condition and feared for his life. The same day he was transferred to the El Salvador hospital where he died later in the day. At the end of the year, the case was still being investigated.

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. These include the case of University of Tarapaca student Daniel Menco Prieto, who police shot and killed during a May 1999 student demonstration.

No information was available regarding the case of Jonathan Moya Jara, whose partially clothed body was found with its head buried in the sand in August 1999. In September 1999 the authorities arrested two Carabineros who had allegedly detained the victim.

No information was available in the case of Raul Palma Salgado, who died in police custody in 1998 after police allegedly tortured him. In 1999 a court sentenced four police officers to 10 years in prison for his death, and their appeal was pending at the end of 1999.

The case of Claudia Alejandra Lopez, who was shot under unclear circumstances during a 1998 demonstration in Santiago, also was inactive. No new information was available on the case of the September 1989 murder of leftist leader Jecar Nehgme, which was reopened in November 1998 when new evidence was discovered.

While former President Pinochet was in the United Kingdom, family members of victims filed numerous charges in Chile against him for deaths and disappearances during the period of military rule. Of these, one concerned the 1973 disappearance of 19 persons in a case known as the Caravan of Death. On August 8, the Supreme Court confirmed a Court of Appeals ruling lifting Pinochet's parliamentary immunity in this case. The Supreme Court's decision stated that "the true purpose of an immunity proceeding is to decide whether there is probable cause against a congressman charged with a crime" and, according to the Code of Criminal Procedure "there is probable cause when evidence is discovered against a congressman that would warrant his arrest." Subsequently, the prosecuting judge ordered psychiatric exams as required by law for defendants over age 70. Pinochet's lawyers appealed the decision, arguing that general physical exams also should be required. At year's end, the prosecuting judge had ordered psychiatric and neurological exams and set a date to take Pinochet's deposition, both steps required by law, which would ultimately pave the way for an indictment and arrest order. At year's end, over 200 cases concerning human rights violations had been filed in the courts against Pinochet.

The Supreme Court decision on Pinochet also contained guidelines calling for full investigation of cases of deaths and disappearances that are likely to fall under provisions of the Amnesty Law or that potentially are subject to the statute of limitations. The Court stated that amnesty is not applied to crimes in the abstract, but rather to individuals found guilty of a crime. Likewise, the statute of limitations should be applied only after the guilty party has been identified and the courts determine that no impeding factors, such as subsequent crimes by the accused are relevant. Previously, investigations into human rights abuses during the 1973-78 pe-

riod had been impeded because the cases were thought to fall automatically under the Amnesty Law and the statute of limitations. By 1989 this interpretation already had begun to erode in the courts. The new guidelines make it possible to open investigations into all types of crimes committed during the 1973–78 period. Following these guidelines, the judge investigating the Caravan of Death case expanded the charges against Pinochet to include aggravated homicide.

In January a military tribunal changed the charges in the case of Operation Albania—the June 1987 killings of 12 Manuel Rodriguez Patriotic Front (FPMR) members—against former National Intelligence Center (CNI) Director Hugo Salas Wenzel from being an author of the crime to concealing it. The military court dropped indictments against former CNI Sub-directors retired General Humberto Leiva Gutierrez and Brigadier Marcos Derpich Miranda, Air Force Captain Hernan Miguel Carmona, and Inspector Jose Morales Morales of the Investigations Police and changed the charges against the 15 other individuals accused in the case from kidnaping to illegal detention. The court ratified the thesis of the investigating judge that the crime under investigation is homicide, thereby affirming that there was never an armed confrontation as the CNI had alleged. At year's end, the investigation and legal proceedings continued.

Acting on a petition by the Council for the Defense of the State (the official entity charged with the defense of the State's legal interests), the Criminal Chamber of the Supreme Court on June 1 transferred the Operation Albania case from the military tribunal to the Court of Appeals. Investigating Judge Milton Juica, who had been handling the case under the military tribunal, was reappointed as investigating judge.

No new information was available regarding the trial of eight CNI agents who authorities charged in November 1999 in the case of journalist Jose Carrasco, who died in 1986. Several of the officers charged in 1999 were also under investigation regarding Operation Albania.

There was little progress in the investigation of Operation Condor, an undercover operation in which several military governments in Latin America cooperated to kill leftist opponents. In 1999 Spanish Judge Baltazar Garzon and a colleague collected evidence and took testimony regarding human rights violations in Chile and Argentina during the military dictatorships. The Social Aid Foundation of Christian Churches (FASIC) reported that on July 2, Argentine judge Maria Servini de Cubria (the same judge in charge of the Prats case) handed over "extrajudicially" numerous antecedents regarding Operation Condor to Chilean Judge Juan Guzman in connection with the 126 (at that time) cases against Pinochet pending before Guzman's court.

In 1999 an appeals court reopened the case of the 1982 killing of labor leader Tucapel Jimenez. In 1998 investigating judge Sergio Valenzuela Pinto had closed the case, ruling that there was insufficient evidence to bring anyone to trial. Acting on a petition by the Council for the Defense of the State, in April 1999 the Supreme Court replaced Valenzuela Pinto, who had been criticized for his handling of the case, with judge Sergio Munoz Gajardo.

Judge Munoz led the Appeals Court to order the detention of 12 persons for the crimes, including retired army general and former head of Army Intelligence (DINE) Ramses Arturo Alvarez Scoglia. Munoz subsequently charged several others, including retired army general and former DINE director Hernan Ramirez Rurange, who is accused of helping one of the suspects flee the country. He also indicted former Auditor General of the Army, retired General Genera Gerlando Torres Silva. Another prominent official among the accused, former CNI director and retired general Humberto Gordon died of a heart attack in June. Munoz dropped charges against several other suspects. In November an investigative judge indicted active duty Brigadier General Hernan Ramirez Hald in the Tucapel Jimenez case; the indictment was the first ever of an active duty general. At year's end, of the 17 persons charged, the authorities had released 2 on bail, detained 14, and were still seeking 1 person.

The family of Carmelo Soria, a Spanish citizen working for the United Nations killed in Santiago on July 14, 1976, continues to seek compensation from the Government in the amount of approximately \$50 million (2.7 billion pesos) and has asked the Audiencia Nacional de Madrid to issue an arrest warrant for Pinochet, retired General Manuel Contreras, and others.

In November an Argentine court found Chilean intelligence agent Enrique Arancibia Clavel guilty and sentenced him to life in prison for his role in the 1974 car bombing in Buenos Aires that killed former Chilean army chief Carlos Prats and his wife Sofia Cuthbert. Arancibia Clavel had filed an appeal, which was pending at year's end. The case had been reopened in 1992 as a result of a petition filed by the Prats family. An Argentine appeals court had ruled in October that the Prats

killing was a "crime against humanity" and, as such, was not subject to the statute of limitations. The judge also requested the extradition of Pinochet and other former military officers and one civilian in connection with the Prats case. At year's end, the Chilean Supreme Court was considering the extradition request.

On December 7, the family of Charles Horman, whom security forces killed in Santiago in 1973, filed a criminal complaint requesting that Judge Juan Guzman open a criminal investigation into his death. The family also filed a petition requesting that the Supreme Court appoint a special prosecutor to hear the case. At year's end, the Supreme Court had not ruled on the petition and the case remained before Judge Guzman.

On July 20, the Seventh Chamber of the Court of Appeals of Santiago sentence two former CNI officials and a DINE official to life imprisonment in the related Juan Alegria Mundaca case. The Supreme Court upheld that decision on appeal.

Families of persons who suffered, died, or disappeared while in government custody continue to file new claims for compensation. In June the Group of Former Political Prisoners of the Region of Valparaiso filed a claim with the regional appeals court seeking damages for illegal detention and deprivation of liberty. In April a Santiago court decreed that the Government should pay about \$222,000 (125 million pesos) to two children of Doctor Enrique Paris for damages resulting from the 1973 death and disappearance of their father. Another Santiago court ordered the Government to pay approximately \$180,000 (100 million pesos) to the family of Arsenio Poupin Ossiel. A court also ordered a payment of approximately \$430,000 (240 million pesos) to the family of Eduardo Paredes. All three disappeared after being taken into custody by the military following the September 11, 1973, assault on the presidential palace. In August the courts awarded approximately \$500,000 (300 million pesos) to the widow and three children of Luis Anibal Manriquez, detained and killed in November of 1973. In October the courts awarded \$400 million (225 million pesos) to Carmen Gloria Quintana, who received burns on her body after being detained by a military patrol in 1986. The Council for the Defense of the State was considering whether to appeal some of these awards at year's end.

In October 1999, Italy requested the extradition of retired General Manuel Contreras and another DINA (the army intelligence branch during the military regime) official to serve prison sentences for their role in the attempted murder of Christian Democrat Party leader Bernardo Leighton, which occurred in Italy in 1975. Chile has no extradition treaty with Italy. In October Supreme Court President Hernan Alvarez rejected the recommendation of the investigating judge that the Government either extradite the two former officials or try them in country for the crime. At the end of the year, the Supreme Court denied the extradition request principally on the grounds of insufficient evidence and lack of due process because the two persons had been tried and convicted in Italy in absentia.

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

On June 13, a "Dialog Table" of military officers and human rights attorneys signed an agreement that established a mechanism for gathering new information on persons who had disappeared during the military regime. Under a law approved in June, specific military officers and community leaders were designated to receive information on the whereabouts of those who "disappeared" during the military regime. Information was received in the strictest confidence during a 6-month period. At year's end the armed forces and the Carabineros were preparing to turn over information on the fate of 200 persons executed during the Pinochet regime. The courts have taken steps to try to locate bodies identified by the Dialog Table process and are deciding what legal actions should be taken next. The 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 (see Section 1.a.). Denial of justice cases based on application of the amnesty law also have been filed with the U.N. Commission on Human Rights (UNCHR).

Investigations of military-era detentions and disappearances of persons at Colonia Dignidad (now called "Villa Bavaria"), a secretive German-speaking settlement 240 miles south of Santiago, intensified during the year. Paul Schaefer, who immigrated from Germany in 1961 with 300 followers, founded the 34,000-acre enclave. In April 1999, investigating judge Juan Guzman issued a detention order against the 79-year-old Schaefer for the kidnaping and disappearance in 1974 of Alvaro Vallejos in the vicinity of Colonia Dignidad. Schaefer, also wanted by the authorities on other charges, remained a fugitive at year's end. During the year the enclave was searched several times. In October the authorities confiscated files and arrested Schaefer's deputy Gerhard Muecke in connection with Vallejos' disappearance. The Government issued an order to expel Muecke and two other German citizens whose residency permits expired. Muecke would stand trial before being expelled.

In January 1985, Boris Weisfeiler disappeared near the Colonia Dignidad under circumstances that have yet to be fully clarified. The case was reopened at the beginning of the year and is among those being investigated by Judge Guzman.

On August 16, the Penal Chamber of the Supreme Court ruled that the Fourth Criminal Court of Santiago had jurisdiction over the case of the disappearance of Jose Manuel Ramirez Rosales, arrested by agents of the DINA in 1974. In May 1999, the authorities indicted former Army Sargent Major and DINA agent Basclay Humberto Zapata Reyes ("El Troglo") in this case.

Of the 1,156 persons who disappeared under the military regime, the remains of 985 have yet to be found. The government agency in charge of the compensation program for the families of those executed or 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. During the year, monthly pension benefits, distributed to an average 3,441 eligible survivors (spouse, mother or father, and children), were approximately \$11.3 million (6.3 billion pesos). Since 1992, the program has distributed well over \$100 million (57.8 billion pesos). Survivors receive pensions, educational benefits and other assistance.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the use of illegal pressure on detainees; however, the CODEPU has received reports of abuse and mistreatment by both the National Police and the Investigations Police. When requested by other human rights organizations or family members, CODEPU lawyers visit detainees during the interrogation (see Section 1.d.) and represent some suspected terrorists in court. The CODEPU continues to investigate alleged use of excessive force against detainees. The Minister of Interior asks the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often do not result in arrests, due in part to the reluctance of judges to pursue the issue vigorously.

The Human Rights Office of the Metropolitan Legal Aid Office, an arm of the Justice Ministry, released a report in March 1999 noting it had assisted 815 persons in 1998, twice the number as in the previous year. The report further stated the Legal Aid Office presented 70 cases to civilian or military courts in 1998; 42 cases were filed in 1997. Of the more recent cases, 48 were lodged against national police officers, while 7 cases involved the Investigations Police and 6, military personnel; the remainder involved various civilian government authorities and private security guards.

In 1998 a law entered into effect that clarified the illegality of any use of force against persons detained by the police. The law provides that if a member of the police force uses "torture or unlawful coercion," either physical or mental, or 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 has found that this law had an important impact on the conduct of the Judicial Police, but little impact so far on Carabineros. Beginning in 2001, courses in human rights are expected to be part of the core curriculum in the Carabiniro police academies for both rank and file as well as officers.

Human rights groups continue to claim that military recruits sometimes are mistreated. The Commission on Juvenile Rights (CODEJU), a nongovernmental organization (NGO), claimed in November 1999 that it had received 380 complaints of recruit mistreatment in the previous 5 years. This statement followed claims of mistreatment by recruits, lawsuits, and an investigation by the army that affirmed recruits' claims of mistreatment. There were three suicides among recent recruits in 1999 and one in 1998.

No new information is available regarding the case of 14 military conscripts who military officers reportedly beat during a military exercise in 1998. As of 1999, one corporal was awaiting trial in the case.

At year's end, the court of appeals had not yet ruled on the August 1997 filing by attorneys for Carmen Gloria Quintana that appealed efforts by the Government to set aside an award of approximately \$600,000 in compensation that the IACHR had recommended for Quintana in 1988. Army Captain Pedro Fernandez Dittus set fire to Quintana and her companion Rodrigo Rojas Denegri while they participated in a protest against the military regime in 1986. Rojas died 4 days later, while Quintana survived with severe and disfiguring injuries.

During the year, there were instances of violent confrontations between radical Mapuche groups and local landowners and representatives of logging companies in the southern part of the country (see Section 5). Most of the protests involved rockthrowing.

A Marxist-Leninist group claimed responsibility for a bomb that exploded on November 26 in front of the Colombian embassy in Santiago. The bombing resulted in damage to property, but no injuries.

Prisons are often overcrowded and antiquated. A fight among prison gangs that led to a fire and the death of seven prisoners caused a national debate on the overcrowding of prisons, which are unable to cope with a rapidly growing inmate population. At year's end, the number of prisoners averaged 163 percent of designed capacity. According to press reports, there were over 30,000 prisoners housed in 104 locations. Food meets minimal nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds often can rent space in a better wing of the prison. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, prisoners have complained to CODEPU about beatings.

Pretrial detainees are not generally held with convicted prisoners.

In 1999 a Santiago appeals court ruled that prison guards had used excessive force when moving maximum security prisoners in February of that year. Prison authorities appealed the finding, and the courts absolved the guards, ruling that the force used was not excessive.

Prison guards have been accused of using excessive force to stop attempted prison breaks. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, the CODEPU reported several instances of alleged mistreatment of prisoners and believes that many others go unreported. CODEPU is particularly concerned about the treatment of prisoners in maximum security prisons and prisoners with HIV/AIDS and mental deficiencies who often do not receive adequate medical attention. The Government announced plans to build 5 new prisons in 2001 capable of housing 8,000 prisoners.

Women are generally housed in separate facilities, which tend to be less crowded and with somewhat better conditions than men's prisons.

By law, juvenile offenders (those under the age of 18) are segregated from adult prisoners. According to the latest available figures, there were 6,630 minors in adult prisons in 1992 and 346 by the end of 1997 although this number increased to 422 by the end of 1998. The Government announced plans to build three juvenile detention centers in 2001.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The authorities generally respect constitutional provisions for arrest and detention; however, detainees are not always 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; police authorities generally observe these requirements.

In practice, many detainees are not promptly advised of charges against them, and they are not granted a timely hearing before a judge. At the end of 1999, 8 percent of the general prison population of 24,791 was under investigation but not charged with a crime; 45 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 48 percent were serving sentences.

A 1998 law requires police to inform those detained of their rights, to expedite notification of the detention to family members, and eliminated the ability of police to demand identification from or stop persons bases solely on suspicion. The law also deals with physical abuse by police against detained persons.

The Constitution provides for the right to legal counsel, but this is a reality only for those who can afford to pay. The Constitution allows judges to set bail.

There were no cases of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for a judicial system independent of the other branches of government; continued turnover in the court system has reduced the number of military-era appointees over the constitutionally independent judicial branch to the point that there they had very little influence over the administration of justice.

Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. Criminal court judges are appointed for life. In 1997 constitutional reforms set 75 as the age limit for Supreme Court justices, gave the Senate the right to approve or disapprove presidential nominations to the Court, and increased court membership from 17 to 21. Of the 21 justices on the Supreme Court, 3 were appointed under the military regime. The Supreme Court prepares lists of nominees for the Supreme Court and appeals courts, from which the President

makes nominations. The Supreme Court continues to work with the other branches of government on broad judicial reform.

If formal charges are filed in civilian courts against a member of the military, including the National Police, the military prosecutor asks for jurisdiction, which the Supreme Court has sometimes granted, although less often than in previous years. This is of particular consequence in the human rights cases from the period covered by the 1978 Amnesty Law. In addition, military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals can be appealed to the Supreme Court. Persons accused of terrorist acts and students arrested during demonstrations for damaging property or assaulting a police officer, are brought before military tribunals. On July 19 the Inter-American Court of Human Rights received a submission on behalf of 32 civilians convicted in military tribunals for violations of the Law on Terrorist Actions, Arms Control, and State Security. The plaintiffs argued that applying military criminal law to civilians violates the American Convention on Human Rights.

A 1997 judicial reform law created the post of Attorney General, with a 10-year term, and a related office that is expected to be in full operation by 2002. Congress passed enabling legislation for the Ministry in September 1999. The judicial reform law, which applies to criminal cases, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented to them. Training and administrative setup began in 1999, and implementation began in December with oral trials in 2 of the 13 political regions.

Based on the Napoleonic Code, the criminal justice system does not provide for trial by jury, nor does it presume innocence until proven otherwise. However, recent changes to the trial system, including the gradual adoption of oral trials, have moved the system away from its Napoleonic roots. Criminal proceedings are inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but indigent defendants do not always receive effective legal representation. Indigent defendants, who account for the majority of cases, may be represented by law students doing practical training, on occasion by a court-appointed lawyer, or by a lawyer from the Government's legal assistance corporation.

There were no reports of political prisoners, although inmates in Santiago's maximum-security prison who have been convicted of terrorist acts routinely claim to be political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. A 1995 privacy law bars obtaining information by undisclosed taping, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respect these rights in practice. However, human rights groups have criticized the existence and application of laws that allow government officials to prosecute journalists who insult or criticize them.

The press maintains its independence, criticizes the Government, and covers issues sensitive to the military, including human rights cases. Investigative journalism is infrequently practiced for both financial and political reasons, but recently on-line dailies are including such stories more frequently.

Two major media groups control most of the print media, which are largely independent of the Government. The State is majority owner of La Nacion newspaper, but it is not under direct government control. Electronic newspapers are emerging with distribution over the Internet.

The broadcast media also are largely independent of government control. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and is self-financing through commercial advertising. It is editorially independent and is governed by a board of directors appointed by the President and approved by the Senate. Members reflect various political viewpoints, and the board encourages the expression of varied opinions over the network.

Under the State Security Law of 1958, it is a criminal offense to besmirch the honor of state institutions and their members and symbols, such as the Congress, the Supreme Court, the military services, the flag, and the President. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court. Human Rights Watch (HRW) and the Inter-American Press Association have criti-

cized these restrictions on freedom of expression and information, as has the Organization of American States Special Rapporteur for Freedom of Expression, who visited the country in June 1999 and called for changes in the law.

Several cases have been brought against journalists under provisions of the State Security Law. In February the Supreme Court sentenced Jose Ale Aravena to a suspended prison sentence under the law for insulting former Chief Justice Servando Jordana in an article in *La Tercera* newspaper. HRW noted that the judge who issued the sentence also insulted and threatened Ale in public before releasing the verdict. In July President Lagos pardoned Ale.

In April 1999, "The Black Book of Chilean Justice" by journalist Alejandra Matus, went on sale in Santiago. Former Supreme Court President Jordana, who was mentioned negatively in the book, immediately filed charges against Matus under the State Security Law, and an appeals court judge ordered all copies of the book seized from the publisher and book stores. The newspaper *La Tercera* and the Editorial Planeta publishing house subsequently placed the prohibited text on the Internet, using foreign servers, and the book was published in Argentina. It remains banned.

After becoming aware of the Jordana lawsuit, Matus left the country and sought and obtained political asylum abroad. The charges against her and seizure of the book were widely repudiated, including by the President and members of Congress. The IACHR adopted a resolution in October declaring that, if the alleged facts of the case are certain, they would constitute a violation of the freedom of expression. Nevertheless, the State Security Law has yet to be modified and, without a conviction, the President is unable to grant Matus a pardon, as he did in the case involving the journalist Jose Ale.

HRW reported that authorities charged journalist Paula Afani Saud with breaching the secrecy of a criminal investigation when she wrote articles in 1998 about an investigation by authorities into narcotics trafficking and money laundering. HRW noted that Afani refused to identify her sources for information contained in the articles and claimed that the subsequent charges brought against her violated the public's right of access to information and counteracted a Government initiative to protect the confidentiality of journalist's sources.

A 1996 privacy law set penalties for those who infringe on the private and public life of individuals and their families. At the time of the law's passage, journalists argued vigorously that applying it to media reporting would have a chilling effect on freedom of the press. To date, this privacy law has not been applied to the media.

The 1980 Constitution established a Film Classification Council (CCC) with the power of prior censorship. The Council has banned over 50 films and approximately 700 videos, mostly for violence and pornography. Local and foreign film distributors regard the CCC's screening process as insufficiently transparent. The Constitution permits the State to censor films. The Lawyers Association for Public Liberties petitioned the IACHR to object to the Supreme Court's banning of the film "The Last Temptation of Christ;" the case was before the InterAmerican Court at year's end.

The National Television Council (CNT), created by legislation in 1989 and supported with government funding, is charged with assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent or to have obscene language or sexually explicit scenes can be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming makes the CNT's job all but impossible. The CNT issues occasional warnings to networks and cable providers and sometimes obliges them to postpone the showing of certain films until after 10 p.m. It also occasionally levies fines. Debate continues over the CNT's role.

The courts can prohibit media coverage of legal cases in progress but do so rarely. The press has begun using foreign Internet web sites to publish articles when gag orders are issued.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble peacefully, and the Government respects this right in practice. However, early in the year an international group of neo-Nazis were prohibited from holding a meeting. The Government enacted legislation to prevent the meeting from being held and specifically used immigration laws to prohibit foreign citizens from entering the country to attend the meeting.

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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. Church and state are officially separate;

however, the Roman Catholic Church continues to receive some preferential treatment. All denominations practice their faiths without restriction.

A 1999 law on religion, designed to bring other religious entities closer to the legal status enjoyed by the Catholic Church, went into effect in March. The new law bestows the same legal status that the Catholic Church previously enjoyed upon all other faiths. However, their status still can be challenged in court. Reflecting its historical position, the legal status of the Catholic Church cannot be challenged at all. The new religion law removed the ability of the State to dissolve religious entities by decree. Instead, this only can occur after a judicial review begun by a complaint filed by the semiautonomous council for the Defense of the State.

Many of the approximately two million Protestants, who represent about 12 percent of the population, assert the Government has discriminated against them. They cite the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. For minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from nonaccompanying parent(s).

The law includes provisions for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen.

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

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

The Constitution provides for the right of citizens to change their government through periodic elections. There is universal suffrage for citizens 18 years of age and over. Free and fair presidential elections were held in December 1999, with a runoff in January. In the second round of elections, Ricardo Lagos narrowly defeated Joaquin Lavín with 52 percent of the vote to Lavín's 48 percent. Lagos led the center-left Concertación coalition that included his Socialist Party, the Christian Democratic Party, the Party for Democracy, and the Radical Social Democrat Party. Lavín was supported by the center-right Alliance for Chile coalition consisting of the Independent Democratic Union and the National Renewal party. The legislative branch, with the exception of 11 nonelected senators among its 49 members, is elected freely and is independent from the executive branch.

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 presidents Pinochet and Frei exercised their option to become senators-for-life.

The former military government wrote the 1980 Constitution, and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. It includes provisions designed to protect the interests of the military and the minority political opposition (currently the center-right coalition). These provisions include limitations on the President's right to remove the commanders in chief of the three armed services and the national police; an electoral system that gives the second-place party (or coalition) in each district disproportionate representation in Congress; and the provision for non-elected senators. In January the IACHR issued a resolution criticizing the existence of designated senators and senators-for-life and urged the Government to end the practice. In October a Senate Commission (including two designated Senators) unanimously approved a proposal that would abolish these positions starting in 2006, but at year's end Congress had not passed legislation codifying this proposal.

Women have the right to vote and are active in all levels of political life, including grassroots movements. Women are a majority of registered voters and of those who actually cast ballots; however, they are underrepresented in government and politics. There are 13 women among the 120 deputies, 2 women in the 49-seat Senate, and 5 women among the 16 cabinet ministers. No women currently serve as Supreme Court justices.

The approximately 1.2 million indigenous people have the legal right to participate freely in the political process, although relatively few are active politically. One member of Congress is of indigenous descent.

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

Several human rights NGO's are active. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC is active on the full range of human rights issues. The CODEPU provides legal counsel to those accused of politically related crimes and to victims of human rights abuses. The Government cooperates with domestic NGO's efforts to investigate current accusations of human rights violations. Many international NGO's also follow human rights issues closely.

There were no confirmed reports of threats made against human rights activists during the year. An investigation into the burglary of the CODEPU offices in 1999 was inconclusive. No information was available regarding unconfirmed threats reportedly made against Rafael Castillo, who had been involved in investigations of human rights abuses associated with Operation Albania and other killings.

In May 1998, then-President Frei advocated the creation of a "national defender of citizens," a state body that would receive complaints about abuse of authority by government officials and agencies. The Lagos administration forwarded legislation to Congress in October to create this entity, but Congress had not passed the legislation by year's end.

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

The Constitution provides for equality before the law and the Government generally respects these provisions. In 1999 Congress amended the Constitution to emphasize the principle of equality between men and women and now states that "persons are born free and equal in their dignity and rights." There are no laws that specifically prohibit discrimination based on race, sex, religion, or social status.

*Women.*—The most serious violations of women's rights involved sexual and domestic violence. The public is becoming increasingly aware of the extent of physical abuse of women. The National Women's Service (SERNAM), created in 1991 to combat discrimination against women, conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities. In a 1996 study conducted by SERNAM, the most recent that it has conducted, results showed that of 12,000 reports of domestic violence since the Law of Intrafamily Violence went into effect, only 1 in 5 accusations resulted in judicial action. The study also found that in nearly three-quarters of those cases, the accusation led to a positive change in the domestic situation regardless of the judicial outcome.

The courts may order counseling for those involved in intrafamily violence. In 1997 there were approximately 61,000 reports of domestic violence. The Citizens' Peace Foundation indicated that there were 1,052 cases of rape reported to the police in 1998, and 993 in 1997. Experts believe that a majority of rape cases go unreported. In July 1999, a new 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 new law also overturned 100-year-old legislation that permitted a man charged with rape to be released if he asked the victim to marry him and she accepted.

Legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. A 1994 law created conjugal property as an option in a marriage, but some women saw this as a disadvantage, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no rights to assets of the wife. In the face of heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in September 1997; the bill faces Senate opposition but was still on the legislative agenda at year's end.

A SERNAM study in 1997 found that the average earnings of female heads of household are 71 percent of those of male heads of household. Women with no schooling averaged a salary that was 87 percent 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) is only 75 percent of the standard minimum wage. Female heads of household with university training averaged 57 percent as much as their male counterparts. The Labor Code provides spe-

cific benefits for pregnant workers and recent mothers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them. Legislation extending these benefits to domestic employees took effect in November 1998.

*Children.*—The Government provides free education through high school; education is compulsory from first through eighth grade.

Violence against children is a problem, albeit a declining one. A survey of eighth grade students by UNICEF comparing the incidence of mistreatment in the years 1994 and 2000 showed that in 1994, 34 percent of children had been subject to some form of serious physical violence. That number had declined to 25 percent this year. During the same period, those having suffered some sort of serious physical violence from their parents had fallen from 21.3 percent to 11.9 percent. Violence by the mother (21.3 percent) was almost twice as frequent as violence by the father (11.9 percent), and violence in low-income households (31 percent) almost double that in high-income households (16.3 percent).

A 1999 report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 maltreated 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 cases of abuse brought to its attention totaled 9,723 in 1998 and 7,676 in 1997. From the middle of 1998 to December of 1999, the SENAME brought to the courts 713 cases for child abuse, 314 for rape, 292 for sexual abuse, 79 for grave harm done to children, and 28 cases of homicide. Of the cases, 70 percent came to trial, of which 80 percent resulted in convictions. Beginning in 1997, the SENAME lawyers began receiving specialized training in child abuse cases, leading to a higher conviction rate of offenders according to the Director of the organization. A report from the La Morada Corporation for Women released in May 1999 estimated that there are 20,000 cases of sexual abuse of children every year.

A 1996 UNICEF report stated that 34 percent of children under 12 years of age experience serious physical violence, although only 3.2 percent of the victims of intrafamily violence reported to the National Police family affairs unit were below the age of 18. A 1994 law on intrafamily violence was designed in part to deal with this problem. According to UNICEF, some form of corporal punishment is used by one or both parents in 62 percent of households. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 are in the work force. A study by the Catholic Church estimated that some 50,000 children under age 15 are working (see Section 6.d.).

UNICEF estimated in June 1999 that there were roughly 10,000 child prostitutes between the ages of 6 and 18, up from 4,200 in 1995.

*People with Disabilities.*—A 1994 law promotes the integration of the disabled into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 1992 census found that 288,000 citizens said that they had some form of disability. The disabled still suffer some forms of legal discrimination; for example, blind persons cannot become teachers or tutors. Although a 1994 law requires that new public buildings provide access for the disabled, the public transportation system does not make provision for wheelchair access, and subway lines in the Santiago metropolitan area provide facilitated access for the disabled only in some areas.

*Indigenous People.*—Approximately 1.2 million persons identify themselves as indigenous. The Mapuches, from the south, constitute about two-thirds of the indigenous population, but there are small Aymara, Atacameno, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. Of the population that identifies itself as indigenous, about one-half remain separated from the rest of society, largely because of 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 is marginal. Indigenous people also experience some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people directly elected representatives to this body in 1995 and 1999. It advises and directs government programs that assist the economic development of indigenous people. In May a commission appointed by the Lagos administration proposed a 16-point program aimed at addressing indigenous concerns. As part of the program, a permanent national commission was created to facilitate the participation of Mapuche and other indigenous populations in the formulation of national policies affecting them.

In October the Chamber of Deputies allowed to lapse a proposed constitutional reform, pending since 1991, that would have recognized explicitly the existence of indigenous persons and the state's responsibility for encouraging development of indigenous culture. Also in October, a group of 200 Mapuches marched from Santiago to the National Congress in Valparaiso demanding land, more political rights, and ratification of International Labor Organization (ILO) Convention No. 169. That convention supports "the aspirations of indigenous people to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, with the framework of the States in which they live." The marchers declared themselves satisfied with the response they received from the legislators.

In the first decision of its kind, a Temuco appeals court ruled in September 1999 that an indigenous employee fired from a municipal job had been discriminated against by her immediate superior. The court based its ruling on the Indigenous Law, which outlaws discrimination on the basis of "origin and culture."

Several Mapuche families continued to object to exchanging traditional lands for other property as part of the Ralco hydroelectric project. The eight families involved continued to object to ENDESA's effort to have them resettled. Land occupations and other violence by isolated Mapuche Indian groups against private forestry companies occurred through much of the year (see Section 1.c.).

The Government had not responded to suggestion from the U.N. Committee for the Elimination of Racial Discrimination made in August 1999. The Committee suggested that the Government apologize to and compensate indigenous people for their historical treatment, and explicitly outlaw racial and ethnic discrimination.

*National/Racial/Ethnic Minorities.*—The Country assimilated a major European migration in the 19th century and major Middle Eastern and Croatian migrations in the early part of the 20th century. Smaller racial and ethnic minority groups such as those of Asian descent and African-Chileans also can be found and experience 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 is estimated at 5.7 million persons, of whom 3.7 million are salaried. Union membership is approximately 655,000, or roughly 12 percent of the work force. Government-employee associations are provided with the same rights as trade unions; however, the law denies government employees the possibility of uniting with other workers or to benefit from joint actions, thus constituting an interference to their freedom of association. Police and military personnel and employees of state-owned companies attached to the Ministry of Defense may not organize collectively. Members of unions are free to withdraw from union membership.

The 1992 Labor Code permits nationwide labor centrals, and the Unified Workers Central (CUT), the largest and most representative of these, legalized its status in April 1992. Labor unions are effectively independent of the Government, but union leaders usually are elected from lists based on party affiliation and sometimes receive direction from party headquarters. Political activities or affiliations of unions or union officials are not restricted. Registering a union is a simple process.

Employees in the private sector have the right to strike; however, the Government regulates this right, and there are some restrictions on the right to strike. Public employees do not enjoy the right to strike, although government teachers, municipal, and health workers have struck 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 is no provision for compulsory arbitration in the public sector. Striker replacements are permitted under certain circumstances.

Employers must pay severance benefits to striking workers and must show cause to dismiss workers. Employees who believe they have been dismissed unfairly or dismissed because of their trade union activities file complaints with the Ministry of Labor. However, even if such a claim is found to have merit, the employee does not enjoy the right to reinstatement. In such cases the employer is only required to make additional compensatory payments. The burden of proof rests with the employer in cases in which employees allege illegal antiunion activity.

In October protesting truck owners disrupted movement along parts of the highway system for over two days. The truckers asked for lower diesel fuel prices and a limit on the number of truckers allowed to work in the country. Labor unions did not support the truck owners.

The CUT and many other labor confederations and federations maintain ties to international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—Despite legal provisions for collective bargaining, the Labor Code includes provisions that make it difficult for trade unions to organize in many sectors. As a result, the majority of workers work under individual contracts. Employers say that this is due to the workers' preference, distrust of union leaders, and loyalty to companies. Union leaders counter that the Labor Code—which does not allow union shops—prevents successful organization in many sectors. Unions cite the widespread practices of subcontracting and temporary employment as a ways that employers resist unionization.

The Ministry of Labor arbitrates about half of the complaints it receives. Workers may take cases to the courts if they have not been arbitrated. If complainants succeed in proving that they were fired unjustly, the employer must pay discharged employees twice their normal severance payment. There are no statistics available concerning the disposition of complaints of antiunion behavior. There were allegations that employers dismiss workers for union activity and attempt to avoid a complaint by immediately paying them some multiple of the normal severance pay.

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, as it is dependent on employers agreeing to negotiate with unions of temporary workers. Likewise, intercompany unions are permitted to bargain collectively only if the employer agrees to negotiate with such a union. Labor Code sanctions against unfair bargaining practices protect workers from dismissal only during the bargaining process. Labor leaders complain that companies invoke the law's needs-of-the-company clause to fire workers after a union has signed a new contract, particularly when negotiations result in a prolonged strike.

Labor laws apply in the duty free zones; there are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit forced or compulsory labor, and it is not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law allows children between the ages of 16 and 18 to work with the express permission of their parents or guardians. The law allows 15-year-olds to work under certain conditions; their parents must consent they must have finished compulsory schooling, and they may only perform light work not requiring hard physical labor, or constituting a threat to health and childhood development. In July Congress passed a law that raised the minimum legal age for some types of work from 14 to 15 years of age. 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). Labor inspectors enforce these regulations, and compliance is good in the formal economy; however, many children are employed in the informal economy. In August 1999, Congress passed a law that raised the minimum age to work in an underground mine from 18 to 21 years; special regulations govern the ability of 18- to 21-year-olds to work at such sites.

UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 work. A government study in 1996 estimated that 15,000 children between the ages of 6 and 11 and 35,000 children between the ages of 12 and 14 are in the work force. A 1998 Catholic Church study estimated that 50,000 children under the age of 15 worked. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. The Labor Code does not specifically prohibit forced and bonded labor by children, but such practices were not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets minimum wages, and the minimum wage is adjusted annually. This wage is designed to serve as the starting wage for an unskilled single worker entering the labor force and does not provide a worker and family with a decent standard of living. Approximately 400,000 workers (about 11 percent of the work force) earn the minimum wage. According to the Government, of the workers who earn the minimum wage, approximately 43 percent are between the ages of 15 and 19. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. In May 1998, Congress approved the Government's proposal setting an escalating minimum monthly wage through the year 2000; the minimum wage as of December 31 was approximately \$175 (100,000 pesos).

The law sets hours of work and occupational safety and health standards. The legal workweek is 48 hours, which can be worked in either 5 or 6 days. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

Occupational health and safety are protected under the law and administered by both the Ministries of Health and of Labor. The Government has increased resources for inspections by over 60 percent since 1990 and targeted industries guilty of the worst abuses. As a result, enforcement is improving, and voluntary compliance is fairly good. A 1996 law increased the number of annual occupational health and safety inspections and provided that they be carried out by an expanded labor inspection service in the Ministry of Labor. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. There was a 24-percent decline in reported occupational injuries in 1997, the last available figures, compared with the previous 5 years, although 11 percent of the work force still submitted claims. 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 are no laws that specifically prohibit trafficking in persons, although it may be prosecuted under other laws.

There were occasional reports that persons were trafficked through the country.

If cases of trafficking in persons were to arise, the police, Justice and Interior Ministries, SERNAM (if the cases involved women), or SENAME (if the cases involved children) would respond.

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## COLOMBIA

Colombia is a constitutional, multiparty democracy in which the Liberal and Conservative parties have long dominated politics. Citizens elected President Andres Pastrana of the Conservative Party and a bicameral legislature controlled by the Liberal Party in generally free, fair, and transparent elections in 1998, despite attempts at intimidation and fraud by paramilitary groups, guerrillas, and narcotics traffickers. Similar attempts at intimidation by illegal armed actors, including killings and kidnappings, threatened to impair local elections scheduled for October; however, the elections were generally peaceful. The civilian judiciary is largely independent of government influence; however, the suborning or intimidation of judges, witnesses, and prosecutors is common.

The Government continued to face serious challenges to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence—both political and criminal—persisted. The principal participants in the conflict were government security forces, paramilitary groups, guerrillas, and narcotics traffickers. The number of victims of paramilitary attacks during the year increased. In some areas government forces were engaged in combat with guerrillas or narcotics traffickers, while in others paramilitary groups fought guerrillas, and in still others guerrillas attacked demobilized members of rival guerrilla factions. The 2 major guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), consist of an estimated 11,000 to 17,000 full-time combatants organized into more than 100 semiautonomous groups. The FARC and the ELN, along with other smaller groups, exercised a significant degree of territorial influence and initiated armed action in nearly 1,000 of the country's 1,085 municipalities during the year, which was approximately the same level as in 1999. Their popular support nationwide remained low, according to polls and numerous other reports. The major guerrilla organizations received a significant part of their revenues (in the hundreds of millions of dollars) from fees levied on narcotics production and trafficking, as well as kidnaping and extortion. Guerrillas and paramilitary groups supplanted absent state institutions in many sparsely populated areas. Peace talks initiated in 1999 between the Government and the FARC continued in a demilitarized zone ("despeje") consisting of 5 southern municipalities, with a total population of approximately 100,000 persons. In the absence of both a state presence and international verification, FARC human rights abuses inside the zone, as well as outside of it, continued. Peace talks were complicated by the September 8 hijacking of a commercial plane by a FARC guerrilla who obtained refuge in the demilitarized zone. On November 14, the FARC unilaterally suspended negotiations and demanded concrete government action against the paramilitary groups. On December 6, President Pastrana extended the term of the demilitarized zone

until January 31, 2001, as intense public debate continued over the value of the existing peace process. The killing of congressional peace commission chairman Diego Turbay Cote on December 29 cast further doubt on the future of peace negotiations, although government and FARC negotiators remained in contact.

In April the Government and the ELN agreed in principle on verification within a proposed "encounter zone" in southern Bolívar and northeastern Antioquia departments, in which the ELN's national convention could take place. However, progress stalled when local residents of the proposed zone protested its creation. Two groups—Asocipaz and the "No to the Despeje" Committee—demanded active consultation with the Government on the creation of an encounter zone and on occasion blocked access to the area. Paramilitary groups have attempted to influence these organizations. The Governments of Spain, France, Switzerland, Norway, and Cuba took a progressively more active role in the peace process during the year and committed to provide development assistance when the zone is implemented. However, the September 17 mass kidnaping of over 50 Cali residents by the ELN again slowed the peace process. After negotiation coupled with military pressure, the last of the hostages were released on November 3. ELN leaders participated in a mid-October conference in San Jose, Costa Rica, jointly sponsored by the Government and a group of nongovernmental organizations (NGO's), to explore solutions to the conflict. (The FARC, although invited, did not participate in the conference.) On December 15, five hired killers wounded public employees' union president Wilson Borja, a key member of the civil society facilitating commission in the Government-ELN peace process. Carlos Castano, the head of the United Self-Defense Groups of Colombia (AUC) paramilitary umbrella organization, admitted a role in the attack. The Christmas release of 42 police and military hostages by the ELN paved the way for continued negotiations on the encounter zone at year's end.

In open opposition to the Government, in November the AUC paramilitary group kidnaped seven members of Congress and demanded that the Government grant the AUC a role in the peace negotiations with the FARC. Interior Minister Humberto de la Calle negotiated the hostages' release with Castano, an action that angered the FARC. The Government refused to accord illegal self-defense (paramilitary) groups any political status.

The civilian-led Ministry of Defense is responsible for internal security and oversees both the armed forces (including the army, air force, navy, marines, and coast guard) and the National Police. In the past, civilian management of the armed forces has been limited; however, over the past few years, the professionalism of the armed forces has improved, and respect for civilian authority on the part of the military has increased. In addition to the armed forces and the National Police, the public security forces include armed state law enforcement and investigative authorities, including the Administrative Department of Security (DAS) and the Prosecutor General's Technical Corps of Investigators (CTI). The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security, but in practice law enforcement responsibilities often were shared with the army in both rural and urban areas. Many observers maintain that government action to combat paramilitarism has been inadequate, and in the past security forces regularly failed to confront paramilitary groups; however, the security forces improved their efforts to confront and detain members of paramilitary groups during the year. Nevertheless, members of the security forces sometimes illegally collaborated with paramilitary forces. The armed forces and the police committed serious violations of human rights throughout the year.

Despite years of drug- and politically related violence, the economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the principal legal exports. In 1999 the country suffered its first recession in over 60 years, with a decrease in gross domestic product (GDP) of 4.5 percent and record unemployment of over 20 percent. Although the economy recovered with 3 percent growth during the year, the level of unemployment remained unchanged and was at 19.7 percent by year's end. The inflation rate at year's end was 8.75 percent. Since September 1999, the Government has adopted fiscally austere budgets and floated the peso. High levels of violence greatly inhibit business confidence. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy, and political life. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately \$2,100.

The Government's human rights record remained poor; there were some improvements in the legal framework and in institutional mechanisms, but implementation lagged, and serious problems remain in many areas. Government security forces continued to commit serious abuses, including extrajudicial killings. Despite some

prosecutions and convictions, the authorities rarely brought higher-ranking officers of the security forces and the police charged with human rights offenses to justice, and impunity remains a problem. Members of the security forces collaborated with paramilitary groups that committed abuses, in some instances allowing such groups to pass through roadblocks, sharing information, or providing them with supplies or ammunition. Despite increased government efforts to combat and capture members of paramilitary groups, often security forces failed to take action to prevent paramilitary attacks. Paramilitary forces find a ready support base within the military and police, as well as among local civilian elites in many areas.

On August 12, the revised Military Penal Code went into effect, which provides for an independent military judicial corps and for legal protection for troops if they refuse to carry out illegal orders to commit human rights abuses; the code also precludes unit commanders from judging subordinates. A series of military reform decrees signed by the President on September 14 provided greater facility for the military to remove human rights abusers or paramilitary collaborators from its ranks and provided for the further professionalization of the public security forces. The military judiciary continued to demonstrate an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary, as required by a 1997 Constitutional Court ruling and the new Military Penal Code; in August a presidential directive reinforced these legal norms.

Police, prison guards, and military forces tortured and mistreated detainees. Conditions in the overcrowded and underfunded prisons are harsh; however, some inmates use bribes or intimidation to obtain more favorable treatment. Arbitrary arrest and detention, as well as prolonged pretrial detention, are fundamental problems. The civilian judiciary is inefficient, severely overburdened by a large case backlog, and undermined by intimidation and the prevailing climate of impunity. This situation remains at the core of the country's human rights problems. The Superior Judicial Council (CSJ) estimated, based on a 1997 survey, that 63 percent of crimes go unreported, and that 40 percent of all reported crimes go unpunished. On April 6, the Constitutional Court overturned much of the 1999 law that had created the specialized jurisdiction (which had replaced the anonymous regional courts system on July 1, 1999).

The authorities sometimes infringed on citizens' privacy rights. Journalists typically work in an atmosphere of threats and intimidation, primarily from paramilitary groups and guerrillas, which appeared to worsen during the year; journalists practice self-censorship to avoid reprisals. There were some restrictions on freedom of movement, generally because of security concerns. Violence and instability in rural areas displaced between 125,000 and 317,000 civilians from their homes during the year. Almost one-fourth of these movements occurred in massive displacements. (Exact numbers of displaced persons are difficult to obtain because some persons were displaced more than once, and many displaced persons do not register with the Government or other entities.) The total number of internally displaced citizens during the last 5 years may exceed 1 million. There were reports that security force members harassed or threatened human rights groups. Violence and extensive societal discrimination against women, abuse of children, and child prostitution are serious problems. Extensive societal discrimination against the indigenous and minorities continued. Child labor is a widespread problem. Trafficking in women and girls for the purpose of forced prostitution is a problem. "Social cleansing" killings of street children, prostitutes, homosexuals, and others deemed socially undesirable by paramilitary groups, guerrillas, and vigilante groups continued to be serious problems.

Paramilitary groups and guerrillas were responsible for the vast majority of political and other killings during the year. Throughout the country, paramilitary groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes, thereby depriving guerrillas of civilian support and allowing paramilitary forces to challenge the FARC and the ELN for control of narcotics cultivations and strategically important territories. Paramilitary forces were responsible for an increasing number of massacres and other politically motivated killings. They also fought guerrillas for control of some lucrative coca-growing regions and engaged directly in narcotics production and trafficking. The AUC paramilitary umbrella organization, whose membership totaled approximately 8,150 armed combatants, exercised increasing influence during the year and fought to extend its presence through violence and intimidation into areas previously under guerrilla control while conducting selective killings of civilians it alleged collaborated with guerrillas. The AUC increasingly tried to depict itself as an autonomous organization with a political agenda, although in practice it remained a mercenary vigilante force, financed by criminal activities and sectors of society that are targeted by guerrillas. Although some para-

military groups reflect rural residents' desire to organize solely for selfdefense, most are vigilante organizations, and still others are actually the paid private armies of narcotics traffickers or large landowners. Popular support for these organizations grew as guerrilla violence increased in the face of a slowly evolving peace process. The Government continued to insist that paramilitary groups, like guerrillas, were an illegal force and increased efforts to apprehend paramilitary members; however, the public security forces' record in dealing with paramilitary groups remained mixed. In some locations the public security forces increasingly attacked and captured members of such groups; in others elements of these entities tolerated or even collaborated with paramilitary groups.

The FARC and the ELN regularly attacked civilian populations, committed massacres and summary executions, and killed medical and religious personnel. The FARC continued its practice of using gas canisters as mortars to destroy small towns, indiscriminately wounding government officials and civilians in the process. Guerrillas were responsible for the majority of cases of forcible recruitment of indigenous people and of hundreds of children; they also were responsible for the majority of kidnappings. Guerrillas held more than 1,000 kidnaped civilians, with ransom payments serving as an important source of revenue. Other kidnap victims were killed. At year's end, the FARC and ELN reportedly held 527 soldiers and police. In many places, guerrillas collected "war taxes," forced members of the citizenry into their ranks, forced small farmers to grow illicit crops, and regulated travel, commerce, and other activities. In March the FARC announced "Law 002," which demanded that anyone with assets of \$1 million pay taxes to the FARC or risk kidnaping. The FARC routinely committed abuses against citizens who resided in the despeje zone. Numerous credible sources reported cases of murder, rape, extortion, kidnaping, robbery, threats, detention, and the forced recruitment of adults and children, as well as impediments to free speech and fair trial and interference with religious practices.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—Political and extrajudicial killings continued to be a serious problem. An estimated 4,000 citizens died in such acts, committed principally by nonstate agents. Members of the security forces continued to commit extrajudicial killings.

An analysis of data from the Center for Investigations and Popular Research (CINEP), published by the Colombian Commission of Jurists (an NGO), indicated that there were 20 reports of extrajudicial killings attributable to state forces in the period from October 1999 to March, including deaths that resulted from police abuse of authority. However, the military claimed that six of the deaths resulted from confrontations with guerrillas; four alleged deaths (of which only one was confirmed) resulted from a panic when the army tear-gassed an indigenous protest (see Sections 2.b. and 5); and five were attributed by other groups to paramilitary forces. CINEP calculated 37 similar cases in 1999, which also included deaths that resulted from police abuse of authority. Most of the incidents cited by the Commission were under investigation by military and civilian authorities at year's end. The number of cases of military personnel accused of human rights violations who were tried in civilian courts increased. There were some reports that police and former security force members committed social cleansing killings.

According to the Human Rights Ombudsman's office, there were 235 massacres (defined as the simultaneous or nearly simultaneous killing of 3 or more persons outside of combat at a single location or at several nearby locations) during the first 6 months of the year. An estimated 1,073 persons were killed in these massacres; the Ministry of Defense attributed none of these deaths during this period to public security forces. The Central Directorate of the Judicial Police reported 1,286 persons killed in 216 massacres (defined as 4 or more persons killed in the same incident) during the year and attributed none of these massacres to security forces. The Ombudsman's office recorded 509 massacres in 1999, in which 2,262 persons were killed, and attributed 20 killings to public security forces.

On August 15, an army unit mistakenly killed 6 children; the Prosecutor General's office determined that the act was unintentional harm caused in the course of duty and referred the case to the military justice system (see Section 1.g.).

The human rights delegate of the Attorney General's office, which oversees the performance of all public sector employees, received 201 complaints and cases during the first 6 months of the year and concluded 26 disciplinary investigations. Among the complaints were 20 complaints of massacres. The Attorney General's office received 78 complaints related to massacres and forced disappearances during

the year. Approximately 75 percent of these complaints involved the army (particularly in Putumayo, Antioquia, and southern Bolivar departments); the other 25 percent implicated police or DAS officials. During the year, the Attorney General's office concluded 13 investigations of massacres and forced disappearances attributed to state agents and sanctioned 50 members of the security forces (including 10 members of the National Police, 35 members of the army, and 5 members of the DAS). The office exonerated 20 accused persons. Contrary to previous years, the office referred all cases involving human rights violations to the Prosecutor General for criminal investigation. Five generals were under investigation by the Attorney General during the year for failure to prevent paramilitary massacres in 1998 and 1999.

At year's end, the human rights unit of the Prosecutor General's office reported that it had approximately 918 open investigations of human rights violations, in which 1,379 individuals are under investigation. This number includes 286 members of the military and police, 573 presumed members of paramilitary groups, 353 presumed guerrillas, and 187 other civilians. The unit arrested 302 persons during the first 6 months of the year, and other state entities arrested a further 70 persons against whom the unit had cases. As of November, another 676 arrest warrants for persons against whom the unit had cases remained outstanding, of which 37 are for military personnel, 20 are for police, and 3 are for members of the DAS. The authorities detained 38 members of the army, 41 police, 5 members of the DAS, and 5 members of the CTI during the year.

The Central Directorate of the Judicial Police announced that 25,660 murders occurred during the year, compared with 24,358 murders in 1999. The press reported that on average one person was killed every 20 minutes. The police and the Prosecutor General's office have insufficient resources to investigate most killings adequately. The Superior Judicial Council estimated based on a 1997 survey that 63 percent of crimes go unreported and that 40 percent of all reported crimes go unpunished.

According to a March report by the Ministry of Defense, during the first half of the year, the military judiciary convicted and sentenced 206 members of the National Police, army, and navy for serious offenses that the Ministry identified as violations of human rights: homicide, bodily injuries, rape, attempted murder, illegal detention, and abuse of authority. Of the total of 206 convictions, 66 were for homicide and 113 were for bodily injuries. The average sentences issued in 1998 were 58 months' imprisonment for homicide and 15 months' imprisonment for bodily injuries, although sentences ranged from 2 years to 64 years for homicide, and 2 months to 2 years for bodily injuries. The military judiciary convicted and sentenced 206 persons for serious crimes in 1999. The civilian Criminal Procedure Code authorizes restriction to a military base as an acceptable substitute for imprisonment when military jails or prisons are unavailable.

In August 1997, the Constitutional Court more narrowly defined the constitutional provision that crimes by state agents unrelated to "acts of service" must be tried in civilian courts (see Section 1.e.). Since then the military judiciary has turned 1,307 cases, of which an estimated 41 percent are for possible human rights violations, over to the civilian judiciary for investigation and possible prosecution, including cases involving high-ranking officers. During the year, the military judiciary turned 496 cases over to the civilian judiciary, compared with 79 cases in 1999 and 266 cases in 1998. The new Military Penal Code reiterates that the crimes of forced disappearance, torture, and genocide must be tried in civilian courts. President Pastrana reaffirmed these new legal norms in an August directive sent to the military high command and the commander of the National Police (see Section 1.e.).

Prosecution continued in civilian courts against army Major David Hernandez, Captain Diego Fino Rodriguez, Sergeant Edgardo Varon, and Privates Carlos Escudero, Ferney Cardona, and Raul Gallego, members of the Fourth counter-guerrilla battalion (Fourth Brigade), for the March 1999 murder of Antioquia peace commissioner (and former Vice Minister for Youth) Alex Lopera and two other persons. However, in March Captain Fino escaped military detention; four soldiers are under investigation for complicity in his escape. Major Hernandez had escaped in June 1999 and was still at large at year's end. Following Fino's escape, the military announced that all military detainees would be transferred to the military stockade at Tolemaida to prevent further escapes; however, it was not clear that this was implemented in all cases.

On April 1, the Attorney General's office publicly stated that it had found insufficient evidence to bring charges against retired army Colonel Jorge Plazas Acevedo, former chief of intelligence of the army's 13th Brigade, for the October 1998 kidnaping and later murder of Jewish business leader Benjamin Khoudari. The Attorney General's office announced that it was dropping its administrative investigation and publicly asked the Prosecutor General's office to drop its criminal investigation.

However, the Prosecutor General's office continued its prosecution of Colonel Plazas and civilians Jhon Alexis Olarte Briceno and Guillermo Lozano Guerrero, who were on trial at year's end. The Prosecutor General's office has 11 other arrest warrants pending in the case; 1 lieutenant was ruled out as a suspect.

During the year, the Attorney General sanctioned eight service members in connection with the May 1998 Barrancabermeja massacre, of which three—army Captain Oswaldo Prada Escobar, Lieutenant Enrique Daza and Second Lieutenant Hector Guzman Santos—were discharged. A police lieutenant colonel, captain, and lieutenant, as well as two DAS agents were suspended. On July 12, Elizabeth Canas Cano, a key eyewitness to the massacre, was killed by two unidentified gunmen. In May the Prosecutor General's office ordered the preventive detention of four paramilitary suspects in the case; the investigation was still in progress at year's end. The Attorney General's office also was conducting an inquiry into the death of Canas.

In December the Attorney General's office charged 17 police and 9 army officials with collusion with paramilitary groups in approximately 160 social cleansing murders by members of paramilitary groups in northeastern Antioquia (near the communities of La Ceja, Guarne, and El Penon) during 1995-98. The Attorney General also charged two municipal officials with omission. The Prosecutor General's office pressed criminal charges against 3 of the 26 officials charged by the Attorney General; police Captain Luis Alfredo Castillo Suarez Juan Carlos Valencia Arbalaez and Carlos Mario Tejada Gallego were on trial in Medellin at year's end. Army Lieutenant Colonel Jesus Maria Clavijo Clavijo, Staff Sergeant Javier Gomez Herran, and soldier Carlos Mario Escudero are under investigation in the killings. Clavijo was arrested, suspended from duty, and placed in military detention on March 17. Although the army challenged jurisdiction, arguing Clavijo's actions were related to acts of service, the CSJ ruled that the case should be tried in civilian court.

On March 3, the ongoing civilian prosecution of retired Colonel Bernardo Ruiz Silva, former commander of the army's now disbanded 20th Brigade (military intelligence), for allegedly organizing the November 1995 Bogota killing of Conservative Party opposition leader Alvaro Gomez Hurtado suffered a major setback when key witness Luis Eduardo Rodriguez Cuadrado retracted his previous testimony before a Bogota judge. However, the testimony of another key witness helped the prosecution. The trial continued at year's end. Also on trial are army intelligence agents Henry Berrio Loaiza and Carlos Gaona Ovalle, retired army warrant officers Omar Berrio Loaiza and Franklin Gaona Ovalle, and civilian accused killers Hector Paul Florez Martinez, Manuel Mariano Montero Perez, Gustavo Adolfo Jaramillo Giraldo, and Hermes Ortiz Duran.

In 1999 the human rights unit of the Prosecutor General's office formally indicted marine Colonel Jose Ancizar Molano Padilla, then-commander of the 2nd Marine Infantry Battalion, as well as marine Corporals Javier Fernando Guerra, Eduardo Aristides Alvarez, and Jose Milton Caicedo for the 1995 social cleansing killings of alleged thieves Sifredy and Fredy Arboleda. On May 25, the Prosecutor General ordered the detention of marine Sergeant Francisco Duarte Zuniga, who was still at large at year's end. A disciplinary investigation by the Attorney General was still underway at year's end.

In October 1998, the Attorney General's office severely reprimanded marine Lieutenant Colonel Rodrigo Alfonso Quinones, along with 4 others, for colluding with paramilitary groups in the murders of at least 50 persons in Barrancabermeja, Santander department, in 1992-94, although he was exonerated by a military tribunal in 1994. Quinones appealed the reprimand, but Attorney General Jaime Bernal recused himself from the case, and Congress never appointed anyone else to adjudicate the matter. The statute of limitations on the case expired during the year, leaving the reprimand standing. During the year, Quinones was promoted to brigadier general.

In July 1999, the Prosecutor General's office indicted paramilitary Nicolas Antonio Gomez Zapata for participation in the January 1994 "La Chinita" massacre, which resulted in the deaths of 35 persons. Among the 50 service members sanctioned by the Attorney General during the year were persons accused of involvement in this massacre. No progress has been reported in the Prosecutor General's case.

At year's end, three army noncommissioned officers sought in connection with the April 1991 massacre of bus passengers at Los Uvos remained at large.

In August a civilian court absolved retired army Colonel Hernando Navas of involvement in the November 1988 Nuevo Segovia massacre in which over 100 persons were killed or wounded. The authorities have charged 8 military officials, 1 police officer, and 10 civilians in the case. Among these, Lieutenant Colonel Alejandro Londono Tamayo and Lieutenant Colonel Marco Baez Garzon continued to appeal

civilian court convictions related to the massacre. Londono remained in detention, but was still on active duty, although he has been deprived of command responsibilities. Baez Garzon also was deprived of command responsibility and remained in military custody in Bogota.

On June 29, the Constitutional Court instructed the CSJ to reconsider its 1996 decision referring the case of the 1987 forced disappearance, torture, and death of a member of the M-19 guerrilla group, Nydia Bautista, by accused retired General Alvaro Velandia Hurtado to military courts. Upon the stipulated review, the CSJ reversed itself and assigned jurisdiction to the civilian courts at the end of July, pointing out that the acts were not related directly to military service. The Prosecutor General's office continued its investigation.

There was no information available regarding the pending trial of Lieutenant Colonel Jose Vincente Perez Berrocal for the 1987 killing of a Liberal mayor.

No motives or suspects have been identified in the September 1998 killing of Congressman Jorge Humberto Gonzalez. The investigation remained open at year's end.

Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the public security forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions, and paramilitary forces operated freely in some areas that were under military control or despite a significant military presence. Individual members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, providing them with ammunition, and allegedly even joining their ranks while off-duty.

The military high command, under the leadership of Defense Minister Luis Fernando Ramirez and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups and that the army would combat paramilitary groups; however, security force actions in the field were not always consistent with the leadership's positions. Credible reports persisted of paramilitary installations and roadblocks near military bases; of contacts between paramilitary and military members; of paramilitary roadblocks unchallenged by military forces; and of military failure to respond to warnings of impending paramilitary massacres or selective killings. Military entities often cited lack of information or resources to explain this situation. Impunity for military personnel who collaborated with members of paramilitary groups remained common.

In September the President signed military decrees that allowed for the dismissal of members of the public security forces who were complicit in paramilitary or other illegal activities; government agencies actively investigated allegations of collaboration or complicity with paramilitary groups by members of the security forces. A total of 388 members of the military were dismissed in October; however, it was not known how many of these were dismissed for collaborating with paramilitary groups in such abuses (see Section 1.e.).

Both the Peasant Self-Defense Groups of Cordoba and Uraba (ACCU), the largest of the seven major paramilitary organizations of the AUC umbrella group, and the army's Fourth Brigade claimed responsibility, but in different circumstances, for the January 23 killings of two long-demobilized guerrillas. The ACCU claimed that it killed Uberney Giraldo and Jose Evelio Gallo, both leaders of the Socialist Renewal Current (CRS), and two others after abducting them from the village of San Antonio, Antioquia department. On January 24, the army's Fourth Brigade announced that it had killed two "ELN guerrillas" in combat, but civilian autopsies identified them as the two missing CRS leaders. On January 26, gunmen stole the bodies from the morgue but left the autopsy reports behind. At year's end, investigations by the Attorney General's office and the Prosecutor General's office were underway.

On February 19–20, a large group of AUC paramilitary attackers killed an estimated 37 persons whom they suspected of being guerrillas or guerrilla sympathizers at El Salado, Bolivar department. The navy reportedly set up a roadblock shortly after the killings began, which prevented human rights and relief groups from entering; some groups accepted the navy's explanation that access was not possible due to fighting in the area. The Ministry of Defense denied charges that the navy blocked NGO's from entering or colluded with paramilitary forces, and an investigation by the Prosecutor General was underway at year's end. A military investigation did not find any substantiation for these charges.

The paramilitary group reportedly had been in the town since February 16, and had a list of names of persons they suspected of being guerrilla supporters. The victims included a 6-year-old girl and an elderly woman, and some victims were tortured or raped. The attackers also burned several homes. On February 19, the paramilitary group flew in a helicopter to rescue an injured member. According to

Human Rights Watch, 30 minutes after the paramilitary forces withdrew, government forces entered the town.

On February 22, members of the 3rd Marine Infantry Battalion captured 11 members of the paramilitary group suspected of participating in the El Salado massacre, killed 2 of them, and downed a paramilitary helicopter. According to NGO's and press reports, the massacre at El Salado and a February 15-16 paramilitary massacre at nearby Las Ovejas, Sucre department, displaced approximately 3,000 persons. By year's end, 16 paramilitary suspects were under arrest, and the Prosecutor General's investigation into the paramilitary group's responsibility for the massacre was concluded.

Members of the San Jose de Apartado "peace community" in Uraba region, Antioquia department, as well as NGO's, accused the 17th Brigade of involvement in 2 paramilitary massacres in February and July in which 11 persons were killed. On February 19, unidentified perpetrators widely believed to be members of the ACCU paramilitary group attacked San Jose de Apartado. They selectively killed five persons, and wounded three others. There were reports that the men wore the insignia of the 17th Brigade on their uniforms and that army troops were seen on the outskirts of the city several hours before the massacre. On July 8, approximately 20 paramilitary assailants murdered 6 peasants in La Union, part of San Jose de Apartado. The attackers reportedly gave the citizens 20 days to leave the town. NGO's alleged that the 17th Brigade was complicit in both attacks and that army members were near La Union prior to the July 8 attack. There were allegations that a military helicopter hovered over La Union during the massacre; however, these allegations were never confirmed. The military investigation rebutted the charges. The Prosecutor General was investigating both incidents at year's end. There were at least two visits during the year by joint commissions of inquiry including representatives from the Prosecutor General's office, the Human Rights Ombudsman's office, and international NGO's. Human rights NGO's and members of the peace community of San Jose de Apartado reported 11 additional deaths in separate incidents during the year, half of which they attributed to paramilitary forces. They also reported frequent paramilitary roadblocks, intimidation, theft, and the restriction of incoming food supplies.

In February Human Rights Watch issued a report that stated that the army maintains close operational ties to paramilitary groups. The report highlighted incidents of collaboration by officers of the army's Third, Fourth, and 13th Brigades. It stated that according to evidence from government investigators, the army's Third Brigade based in Cali provided weapons and intelligence to the paramilitary "Calima Front." The report also detailed ties between the army's Fourth Brigade and paramilitary groups and ties between the 13th Brigade (intelligence) and paramilitary groups. The report also detailed threats received by various government agents while they investigated these ties.

Vice President Gustavo Bell responded to the Human Rights Watch report and said that while the Government has never denied residual ties between individual members of the public security forces and paramilitary groups, it has moved to break those ties and punish those responsible. Bell said that the suggestion that there was a "deliberate, institutional will to help and support" paramilitary groups was untrue. Bell noted that much of the information in the report came from the Prosecutor General's office, demonstrating that the Government was investigating military crimes.

In March the Attorney General's office ordered that Vice First Sergeant Jose Maria Cifuentes Tovar, of the 45th Battalion, be removed from the army for having failed to obey orders to install a roadblock to prevent the escape of members of paramilitary groups from Barrancabermeja following a February 1999 massacre that left nine persons dead. On March 18, 1999, police arrested paramilitary leader Mario James Mejia ("el Panadero") for killing a taxi driver; he then was charged in Bogota with leading the February 1999 Barrancabermeja massacre and was still under investigation at year's end. Pedro Mateo Hurtado Moreno and three other paramilitary suspects in the massacre remained at large at year's end. Politically motivated killings and related unrest continued in Barrancabermeja at a very high rate throughout the year.

In March the human rights unit of the Prosecutor General's office ordered the detention of army Captain Luis Fernando Campusano Vasquez and sought the capture of 15 other civilians, including Carlos Castano, who remained at large. They are suspected of being affiliated with area units that collaborated with a 300person paramilitary group based at Vetás, Norte de Santander department, which committed 15 massacres in and around the towns of La Gabarra and Tibu between May 29 and September 1, 1999. More than 145 persons whom the attackers claimed were guerrillas or guerrilla supporters were killed. Nearby elements of the army's 46th

counterguerrilla battalion (Tibu) and Fifth mechanized group (Cucuta), as well as police, did not intervene.

In July the Attorney General announced an investigation into retired army Brigadier General Alberto Bravo Silva, Colonel Roque Sanchez, and three other army officers for failing to prevent a paramilitary massacre of 27 persons in August 1999 in La Gabarra. The investigation was still in progress at year's end. Bravo retired in August 1999 on the orders of President Pastrana. Two of the three army officers are still members of the public security forces. Colonel Sanchez, the regional police commander at the time of the killings, was on trial at year's end. In October the Attorney General's office also charged Colonel Sanchez. On May 3, the Prosecutor General's office formally charged AUC paramilitary chief Carlos Castano with mas-termining the May 29 and August 21 La Gabarra massacres in 1999.

In March the Prosecutor General issued formal indictments against eight security force members, including Tibu military base Commander Mauricio Llorente Chavez, for complicity in a paramilitary massacre that took place in Tibu in July 1999. Five members of the police were charged in May and subsequently were arrested. On June 20, the Prosecutor General's office arrested six members of the National Police—Arturo Velandia, Luis Toloza, Miguel Hernandez, Alfonso Ortiz, Gustavo Lobo, and Jose Ordonez.

In April 1999, President Pastrana formally retired from service Brigadier Generals Fernando Millan Perez and Rito Alejo del Rio; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millan regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In October 1998, the Superior Judicial Council had determined that Millan's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millan had denied the charges. In June 1999, the Attorney General's office opened a disciplinary investigation of Millan, which still was in progress at year's end.

At year's end, General del Rio, former commander of the 13th Brigade, remained under preliminary investigation by the human rights unit of the Prosecutor General's office for allegedly establishing illegal paramilitary groups in Medellin in 1987, and in Uraba in 1996. General Del Rio is also under preliminary investigation by the Attorney General's office.

On July 27, the Attorney General's office formally charged five army officers, including four generals, for failing to protect the residents of Puerto Alvira, Meta department, when paramilitary forces killed 19 persons in May 1998, despite repeated requests by the Human Rights Ombudsman. The five charged are former commanders of the army's Fourth Division, retired General Augustin Ardila Uribe and General Jaime Humberto Cortes Parada (the army's Inspector General); former commander of the 7th Brigade, retired Brigadier General Jaime Humberto Uscategui; commander of the 2nd Brigade, General Fredy Padilla de Leon (former head of the Seventh Brigade); and commander of the "Joaquin Paris" battalion, Colonel Gustavo Sanchez Gutierrez. Those involved denied the charges. The Attorney General's investigation was still in progress at year's end. In June a first instance military court recommended closing the investigation of the case; the Superior Military Tribunal was considering this recommendation at year's end. At year's end, the human rights unit of the Prosecutor General's office had detained three members of paramilitary groups and had outstanding arrest warrants for five more, including brothers Carlos and Fidel Castano.

In August air force Commander Hector Fabio Velasco called for the renewed detention and a first instance hearing of Brigadier General Jaime Uscategui and Lieutenant Colonel Hernan Orozco in connection with the July 1997 AUC paramilitary massacre of dozens of persons at Mapiripan, Meta department. Army Commander General Jorge Mora had recused himself from Uscategui's case due to personal ties and was replaced by Velasco. A military tribunal was still considering the issue at year's end. In May 1999, Uscategui was arrested on civilian charges connected with the case, but in August 1999, the CSJ had ruled that the case should be tried in the military courts. Uscategui was released after 180 days when the military investigation produced no action, although the investigation continued. Early in 1999, Uscategui sought to retire from the military effective in January; however, his effort was thwarted by the Attorney General, who ordered Uscategui dismissed from the military in November 1999 for dereliction of duty in the October 1997 judicial convoy massacre in San Juan de Arama, Meta department. A military trial of Brigadier General Uscategui and Lieutenant Colonel Orozco still was in progress at year's end.

In August 1999, the CSJ had sent the cases of all other defendants in the Mapiripan case to the civilian courts for action, including charges against Lieutenant Colonel Lino Hernando Sanchez Prada for facilitating the massacre, which was determined not to be an act of service. As of February 29, the Prosecutor General's human rights unit had completed its investigations of Lieutenant Colonel Sanchez and the five other defendants (two noncommissioned officers and three commercial pilots) in the civilian judiciary. In November the Prosecutor General indicted in a separate process Lieutenant Colonel Sanchez, two army sergeants, and eight members of paramilitary groups (including two civilian pilots). All the cases were on trial by year's end. In addition to Sanchez, and the five other defendants, two more presumed paramilitary group members (who also were still in detention) were indicted in December.

In May the Attorney General's office, which in 1999 formally had accused five officers, three noncommissioned officers, and five civilian officials of possible complicity or participation in the July 1997 Mapiripan massacre, dropped the charges against and closed the investigation of Lieutenant Colonel Lino Sanchez Prada. The other cases remained under investigation at mid-year.

The case of retired army Colonel Jose Ancizar Hincapie Betancurt for collaboration in 1993-94 with a paramilitary group that killed 10 persons remained pending before civilian courts at year's end.

In July Ivan Cepeda, the son of murdered Senator Manuel Cepeda Vargas, was forced to flee the country due to death threats that he suspected were a reaction to his activism in pursuing justice for his father's 1994 death. In testimony before the Senate, the Attorney General had stated that the Senator had been killed as the result of a joint operation between some senior army officers and members of paramilitary groups. In 1999 the Attorney General's office severely reprimanded army First Sergeant Justo Gil Zuniga Labrador and Vice First Sergeant Hernando Medina Camacho, then members of the army's 20th Brigade, for the killing of Senator Cepeda, who was the leader of the Patriotic Union (UP) party. The army discharged both men from service, and in December 1999 they each were sentenced to 43 years' imprisonment for their roles in Cepeda's murder.

Paramilitary groups committed numerous extrajudicial killings, primarily in areas where they competed with guerrilla forces for control, and often in the absence of a strong government security force presence. The frequency of paramilitary massacres continued to increase significantly. Several major paramilitary campaigns during the year involved a series of orchestrated massacres in Uraba, Norte de Santander, and Barrancabermeja. At mid-year the Human Rights Ombudsman attributed 93 massacres, which claimed 512 victims, to paramilitary groups. In 1999 the office received 1,467 complaints against members of paramilitary groups. The Ministry of Defense attributed 52 percent of the estimated 1,073 deaths that occurred in the 235 massacres reported by the Human Rights Ombudsman's office during the first 6 months of the year. In December the Ministry of Defense reported that paramilitary forces killed 983 civilians in massacres during the year. The Colombian Commission of Jurists attributed 657 killings and 118 social cleansing killings to paramilitary groups in the period from October 1999 through March. Paramilitary activities also included kidnaping, intimidation, and the forced displacement of persons not directly involved in hostilities (see Sections 1.b. and 1.g.). Paramilitary groups targeted teachers (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), community activists, national and local politicians (including President Pastrana), peasants, and other persons whom they accused of supporting or failing to confront guerrillas. Paramilitary forces killed members of indigenous groups (see Section 5).

AUC paramilitary groups were suspected of hundreds of selective killings throughout the country, especially in Choco, Santander, Valle del Cauca, and Antioquia departments. The FARC, the ELN, or both, had a strong presence in these areas as paramilitary forces vied with them for control of territory or resources, including coca cultivation. Paramilitary groups continued to kill political leaders and peace activists, including peace community leader Freddy Gallego, former Aguachica mayor and peace activist Luis Fernando Rincon, and former Cucuta mayor (and current mayoral candidate at the time of his death) Pauselino Camarga. Fourteen members of the CTI were killed during the year in various parts of the country. Both paramilitary forces and guerrillas were suspected of responsibility in these killings.

Paramilitary massacres at Las Ovejas, Sucre department, and El Salado, Bolivar department, were part of an ongoing paramilitary effort to wrest control of the Montes de Maria region from guerrillas. On February 15-16, approximately 150 ACCU members staged attacks in 5 neighborhoods of Las Ovejas. They killed at

least 20 persons whom they suspected of being guerrillas or guerrilla sympathizers, burned dozens of homes, and displaced a large number of persons.

On April 6, approximately 50 paramilitary attackers massacred 21 men whom they suspected of being guerrillas or guerrilla collaborators at Tibu, Catatumbo region, Norte de Santander department, in a continuation of a series of 15 massacres in the region in 1999.

On May 11, a paramilitary group that identified itself as the "Calima Front" claimed responsibility for the killings of 12 civilians in the village of Sabaletas, just outside Buenaventura, Valle del Cauca department. The group also claimed to have killed 14 other persons it suspected of being guerrillas in the same area. According to Human Rights Watch, the army's Third Brigade created and supports the Calima Front, which Human Rights Watch believes is responsible for at least 200 killings between July 1999 and July 2000, as well as the displacement of over 10,000 persons.

In August the AUC paramilitary movement claimed that it had killed the leader and six members of the "la Terraza" gang of hired killers based in Medellin. The AUC was known to have contracted the gang to conduct killings.

In a series of attacks on the night of November 22, paramilitary forces killed 15 fishermen in Nueva Venecia, in the region of La Ciénaga de Santa Marta, Magdalena department, and kidnaped another 22 persons whose bodies later were discovered. Human Rights Ombudsman Eduardo Cifuentes issued a December 14 resolution that reported that 45 persons were killed and that 25 had disappeared, criticized slow government action to assist those displaced as a result of the incident, and called for immediate investigation of reports of a paramilitary base in the area. The Prosecutor General's office was investigating the 37 confirmed deaths at year's end.

Other examples of paramilitary massacres included the killing of 7 persons in Estados Unidos in January, the November killings of 15 persons in Granada in the western part of the country, and the killing in November of 7 persons in Barrancabermeja.

Investigations of past killings and massacres proceeded slowly. In many cases there was no progress in ongoing investigations. Progress during the year included the issuance of warrants of arrest for five suspects involved in murder and extortion as members of the El Corral Convivir (self-defense group) in 1991 in Arauca department. Other members of paramilitary groups investigated and indicted included Luis Arnulfo Tuberquias, who was linked to kidnaping and theft on behalf of such groups; among those captured were Jose Luis Hernandez and Ruben Isaza, nephew and son respectively of paramilitary leader Ramon Isaza, and Dario Zapata Hernandez, allegedly the second in command of the AUC in the Puerto Boyaca area, Caldas department.

On May 3, the Prosecutor General's office formally charged AUC paramilitary leader Carlos Castano with the August 1999 killing of renowned journalist, political comedian, and peace and human rights activist Jaime Garzon Forero in Bogota. On January 13, members of the CTI captured La Terraza gang member Juan Pablo Ortiz Agudelo in Medellin on suspicion of having been the gunman in the attack against Garzon. Ortiz remained in detention in Bogota at year's end. In December a group of men claiming to represent the "La Terraza" criminal organization said publicly that they were hired by Castano to kill Jaime Garzon and human rights activists Elsa Alvarado, Mario Calderon, Jesus Maria Valle, and Eduardo Umana Mendoza. They offered to turn themselves in and provide proof of Castano's involvement in return for security guarantees from the Government. There was no public response from the authorities by year's end.

In December 1999, Spain complied with a government request and extradited paramilitary Lubin de Jesus Morales Orozco, who was arrested in Madrid in June 1999 on unrelated charges, for the April 1998 killing of Eduardo Umana Mendoza, perhaps the country's best-known and most controversial human rights lawyer. Five persons, including Morales, remained in detention and were on trial in a civilian court at year's end.

On June 14, the trial of 10 persons suspected of the February 1998 killing of human rights activist Jesus Maria Valle began in Medellin. Valle was the president of the Antioquia Permanent Committee for the Defense of Human Rights. Charges were brought against suspected killers Jorge Eliecer Rodriguez Guzman, Alvaro Goz Meza, Gilma Patricia Gaviria Palacios, Elkin Dario Granada Lopez, Alexander Vallejo Echeverry, and Carlos Alberto Bedoya Marulanda for direct participation in the crime. In August 1999, the Prosecutor General's office issued arrest warrants for AUC paramilitary leader Carlos Castano and Juan Carlos Gonzalez Jaramillo for planning the crime. Castano was indicted in September 1998 for the killing. According to press reports, the first police agent on the case was killed soon afterward;

the prosecutor fled the country; and another investigator was killed in September 1999.

On November 22, a Bogota judge convicted paramilitary Juan Carlos Gonzalez Jaramillo (alias "El Colorado") and Walter Jose Alvarez Rivera in the May 1997 murders of two CINEP workers, Mario Calderon and Elsa Alvarado, as well as Alvarado's father, Carlos Alvarado. Jaramillo was sentenced to 60 years in prison, and Alvarez Rivera was sentenced to 45 years. The judge determined that soccer magnate Gustavo Adolfo Upegui Lopez was not implicated in the murders but ordered a review of evidence presented during the CINEP trial that connected Upegui with paramilitary groups. Upegui remained under arrest in Medellin on separate charges at year's end. The judge also convicted two other men connected to the case for the illegal use of telecommunications equipment and exonerated two other men accused of organizing the murders. An arrest warrant for paramilitary leader Carlos Castano in connection with this case remains outstanding.

Accused paramilitary Ivan Urdinola Grajales remained detained in connection with the 1989-90 "Trujillo I" massacres in Valle department, and also is implicated in the 1994 "Trujillo II" massacre. Prosecutors also have an outstanding warrant for the detention of one other paramilitary member in the Trujillo I case. In May a court upheld charges against paramilitary Norberto Morales Ledesma for involvement in the Trujillo II massacre. Paramilitary member Reynel Gomez Correa, detained in 1999 in connection with Trujillo II, was murdered in prison in December, before he could be brought to trial. Two other members of paramilitary groups implicated in both Trujillo I and Trujillo II remain at large. One such person has been detained, and another is being sought in the Trujillo I massacre. One paramilitary member has been convicted and another detained for the 1994 Trujillo II massacre. Investigations continue in both cases.

In July the superior court of Cundinamarca department exonerated Jose Tellez and his wife Nancy Lozano, who were accused of participating in the 1989 killing of Liberal presidential candidate Luis Carlos Galan. Another suspect, Alberto Hubiz Hazbun, who was accused of planning the crime, was absolved in 1993. The only person to have been convicted of the crime is John Jairo Velazquez Vasquez, who was sentenced to 20 years in prison in 1997.

No suspects have been identified in the September 1999 killing of academic and peace activist Jesus Bejarano.

There was no information available on the investigation into the May 1998 killing of former Defense Minister General Fernando Landazabal Reyes.

While an estimated 507 members of paramilitary groups were believed to be in jail at year's end, known paramilitary leaders largely remained beyond the reach of the law. Government figures indicated that from 1997 through October 2000, 934 members of paramilitary groups have been captured, and 150 members have been killed. The Ministry of Defense reported that during the year the security forces killed 89 members of paramilitary groups and captured 315 members. In 1999 the army reported that it killed 26 members of paramilitary groups and captured 102 during that year.

Paramilitary forces killed members of indigenous groups (see Section 5) and members of trade unions (see Section 6.a.).

The guerrillas of the FARC, the ELN, and the People's Liberation Army (EPL) continued to commit killings, often targeting noncombatants in a manner similar to that of paramilitary groups. The Colombian Commission of Jurists reported that guerrillas were responsible for 236 political killings in the period of October 1999 through March. The Ministry of Defense attributed 880 civilian deaths in massacres to guerrillas during the year. The Human Rights Ombudsman attributed 22 massacres to the FARC during the first 6 months of the year and 9 massacres to the ELN. The Ombudsman also attributed 89 killings to the FARC and 31 killings to the ELN during the first 6 months of the year. Local elected officials and candidates for public office, teachers, civic leaders, business owners, and peasants opposed to their political or military activities were common targets. The Federation of Colombian Municipalities reported that 17 mayors were killed during the year; guerrillas were the principal suspects (see Section 3). For example, in November unknown gunmen killed Carlos Julio Rosas, mayor of Orito, Putumayo department. In addition, in the run-up to the October municipal elections, 19 mayoral candidates were killed. Police and military personnel were targeted for selective and combat killings (see Section 1.g.). Guerrilla groups also killed religious leaders (see Section 2.c.), members of indigenous groups (see Section 5), and labor leaders (see Section 6.a.). Some communities controlled by guerrillas also experienced social cleansing killings of criminal or other "undesirable" elements. Guerrilla campaigns around the demilitarized area, in the Norte de Santander, Antioquia, and southern departments often

involved significant civilian casualties and prompted significant displacements (see Section 1.g.).

According to military statistics, FARC and ELN guerrillas killed as many as 200 children during the year (see Sections 1.g. and 5).

The human rights unit of the Prosecutor General's office reported in November that it is conducting ongoing investigations into the detention, disappearance, and deaths of 92 off-duty army personnel. Police suspected 22nd FARC front commander "Geovanni" of ordering the February 27 killing of retired army General Crispiniano Quinones (a former commander of the 13th Brigade) by unidentified gunmen at La Vega, Cundinamarca department. According to the press, Geovanni and two other FARC members were killed shortly thereafter in a confrontation with police.

On March 25 and 26, at least 21 police officers and 8 civilians (including the mayor of Vigia del Fuerte and 2 children) were killed when the FARC overran the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department. The FARC held captive at least seven more police officers. The FARC tortured many of the policemen before killing them outside of combat. In April the authorities issued an arrest warrant for FARC member Luis Fernando Zapata Hinestroza.

In May six men who participated in roadblocks protesting a possible demilitarized zone for the ELN in southern Bolivar and Antioquia departments were killed in the Magdalena Medio region. The ELN was suspected of the killings.

On May 7, FARC guerrillas attacked a public bus in Gigante, Huila department, with an explosive device; the driver lost control and hit a tree. FARC members shot at the occupants of the bus and burned the vehicle; four occupants were still inside when the bus was set on fire and are presumed dead.

In June the FARC massacred at least 11 civilians at Nutibara, Antioquia department, and injured 15 other persons. The army's 14th Brigade responded to this and other FARC attacks, reportedly killing 14 guerrillas.

On July 10, in Huila department, two unidentified gunmen killed General Saulo Gil Ramirez, former Director of the National Police from 1958-65. The press speculated that guerrillas were responsible for the killing.

On July 1, 1 person was killed and approximately 40 were wounded when several explosive devices exploded at the El Valle police command in Cali. Authorities attributed the explosion to subversive groups. On the same day, ELN guerrillas attacked the police's Simon Bolivar Carabineer Academy in southwestern Cali.

On July 14, the FARC entered the town of Roncesvalles in Tolima department and killed 13 policemen (see Section 1.g.).

An August offensive by the FARC resulted in the deaths of more than 20 civilians and military personnel.

In August FARC guerrillas killed secretary general of Rio Blanco Milciades Luis Garabito after accusing him of paramilitary ties.

According to press reports, also in August an ELN guerrilla squad tortured and killed eight residents of Sardinita, including one child and one teacher.

In early October, the FARC attacked the remote village of Ortega and killed eight persons, including two women and two children. The guerrillas also burned 20 homes, a school, and a church.

On October 18, guerrillas attacked Bagado and Dabeiba in the Choco department, killing 1 police officer; 17 were missing. Much of Bagado was destroyed.

On November 23, suspected guerrillas killed 12 persons in Santander de Quilichao, Cauca department. At least some of the victims reportedly were linked to paramilitary groups. Two women were injured. Also on November 23, FARC guerrillas killed nine peasants suspected of collaborating with paramilitary groups in Antioquia department.

Investigations into reported killings by FARC members within and on the periphery of the demilitarized zone continued. On December 29, congressional peace commission chairman Diego Turbay Cote, his mother councilwoman Ines Cote, and five other persons were killed in Caqueta department (near the FARC demilitarized zone). The killings placed the future of the peace process in doubt as the Prosecutor General, army, and police alleged that the FARC were responsible. There was no reported progress in the Prosecutor General's investigation into the May 1999 killings in Vereda Perlas Altas, Puerto Rico, Caqueta department. According to press reports, the FARC have executed approximately 20 residents in the despeje zone.

Guerrillas killed citizens using bombs and artillery and continued their practice of using gas canisters to attack small towns, thereby killing civilians indiscriminately (see Section 1.g.).

On May 1, FARC spokesman Raul Reyes said that a FARC "revolutionary tribunal" exonerated FARC eastern bloc commander German Briceno Suarez ("Grannobles") of involvement in the March 1999 killings of kidnapped American cit-

izen indigenous activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. In July 1999, the Prosecutor General's office ordered the arrest of Briceno; army efforts to apprehend him and other FARC members accused of the crime had not been successful at year's end. Reyes said that investigations of other FARC members suspected of the killings would continue. In September the Prosecutor General's office sought to question Nelson Vargas Ruedas, a FARC guerrilla imprisoned in Bogota, for information about the crime. U'wa tribe member Gustavo Bocota Aguablanca, who also was indicted for the crime in December 1999, was still at large at year's end. The investigation of the case continued at year's end.

In December a Medellin court ruled that Wilson Eusebio Garcia Ramirez, commander of the ELN's "Carlos Alirio Buitrago" front, should be tried in absentia for the September 1998 killings of CTI members Edilbrando Roa Lopez and John Morales Patino at Mesopotamia, Antioquia. The two had been investigating a 1998 massacre of nine persons at the nearby town of Sonson.

At year's end, the authorities had not yet captured two members of the FARC's 32nd Front, including Arley Leal and Milton de Jesus Tonal Redondo ("Joaquin Gomez" or "Usurriaga"), head of the FARC's southern bloc, in connection with the September 1998 murder of Father Alcides Jimenez in Putumayo.

The Ministry of Defense reported that security forces killed 970 guerrillas and captured 1,556 guerrillas during the year. The Prosecutor General's office reported that at year's end, it had open investigations of 353 guerrillas, had 53 guerrillas in custody, and had 252 warrants for the arrest of guerrilla leaders.

Approximately 80 cases regarding Colombia were before the InterAmerican Commission on Human Rights (IACHR) at year's end. The great majority involved violations of the right to life. At year's end, the IACHR was expected to make a decision about whether to move a case involving paramilitary and military involvement in the 1996 killing of 19 merchants to the InterAmerican Court of Human Rights.

The IACHR continued the process of trying to reach an amicable settlement of the Patriotic Union's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" of the UP and the Communist Party. As part of the process, since June the Government has provided protection through the Interior Ministry to surviving UP and Communist Party members. Despite these efforts, at least two UP members reportedly were killed during the year.

There continued to be incidents of social cleansing—including attacks and killings—directed against individuals deemed socially undesirable, such as drug addicts, prostitutes, transvestites, homosexuals, beggars, and street children. The Colombian Commission of Jurists did not attribute any social cleansing killings to security forces during the period from October 1999 through March; it attributed 118 social cleansing killings to paramilitary groups and 2 such killings during this period to the guerrillas.

*b. Disappearance.*—The 1991 Constitution and the law explicitly prohibit "forced disappearance;" however, it continued to be a problem. On May 30, Congress codified forced disappearance, genocide, torture, and forced displacement as crimes, permitting such cases to be tried in the civilian judiciary. On July 6, President Pastrana signed the law, and it entered into effect immediately. Human rights activists noted that the final law did not include a draft article stipulating that the four crimes, as serious human rights violations, must be tried in the civilian, rather than the military judiciary, when military defendants are involved, according to a 1997 Constitutional Court decision. However, advocates of the bill noted that the reformed Military Penal Code, which entered into effect August 12, did include such a stipulation. More than 3,000 cases of forced disappearance have been reported formally to the authorities since 1977; very few have ever been resolved. Many of the victims disappeared in the course of various confrontations between armed groups or with the State. The great majority of victims of forced disappearance were never seen or heard from again.

The Attorney General's office, which oversees the performance of all public sector employees, received 78 complaints related to massacres and forced disappearances during the year; approximately 75 percent of these complaints involved the army (particularly in Putumayo, Antioquia and southern Bolivar departments); the other 25 percent implicated police or DAS officials. A report of three persons who allegedly disappeared due to actions by the army has not been confirmed.

There were no reported results from the trial in a civilian court of police Major Manuel de Jesus Lozada Plazas, the former deputy commander of the Government's elite antiskidnaping squads known as the GAULA, at year's end. The authorities had suspended him from duty and placed him on half-pay following his arrest in March 1997. There also have been no results reported in the investigation into cooperation between these squads and illegal paramilitary groups.

In May the Prosecutor General indicted retired Colonel Gonzalo Gil Rojas, former commander of the 20th Brigade, for responsibility in the 1989 kidnaping of Amparo Tordecillo Trujillo, a former EPL member; in December the charges were dismissed. The Prosecutor General also indicted in absentia former 20th Brigade members retired Captain Mario Raul Rodriguez Reynoso and three noncommissioned officers; they remained at large at year's end.

The law prohibits kidnaping; however, it remained an extremely serious problem. Reforms to the Penal Code enacted in June increased the minimum sentence for simple kidnaping from 6 to 8 years; the maximum is 20 years. Police figures for the year, corroborated by Free Country Foundation (Fundacion Pais Libre), registered 3,706 kidnapings during the year, compared with 3,201 in 1999. Paramilitary groups kidnaped 280 persons, while criminals kidnaped 371 persons and another 944 persons were kidnaped by unknown persons or groups. Guerrilla groups were responsible for 2,104 cases. An estimated 164 minors were in captivity at year's end. GAULA members and other units of the security forces freed 507 persons during the year (including at least 48 children); 285 of the rescued victims were held by the ELN, 82 by the FARC, 44 by the EPL (Popular Liberation Army), and the remaining 96 by either paramilitary groups or common criminals. The GAULA reported that 173 people died in captivity during the year, a 33 percent increase over 1999. Arrests or prosecutions in any kidnaping cases were rare.

The Colombian Commission of Jurists attributed 145 forced disappearances to paramilitaries in the period from October 1999 through March. In many instances persons kidnaped by paramilitary groups later were found dead.

On March 9, a paramilitary group led by Jhon Jairo Esquivel Cuadrado kidnaped seven members of the CTI at Minguillo, Cesar department. Esquivel was captured in July and remained detained pending formal charges at year's end. There were no indications that the abducted investigators were still alive.

In May paramilitary forces kidnaped and raped journalist Jineth Bedoya (see Section 2.a.).

On June 19, Carlos Castano's AUC paramilitary group kidnaped Antioquia Deputy Guillermo Leon Valencia Cossio, brother of the Government's negotiator in the peace process with the FARC, Fabio Valencia Cossio, but released him on June 23.

In October the AUC paramilitary group kidnaped seven members of Congress, including former Senate President Miguel Pineda and Zulema Jattin, a member of a congressional peace commission, and demanded that the AUC be consulted in the peace process. The Government refused to open discussions with the AUC, but Interior Minister Humberto de la Calle negotiated the hostages' release with Castano.

Kidnaping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and ELN. In April the FARC announced "Law 002," which required persons with more than \$1 million in assets to volunteer payment to the FARC or risk detention. According to Pais Libre, politicians, cattlemen, children, and businessmen were guerrillas' preferred victims. The FARC often purchased victims kidnaped by common criminals; the FARC then negotiated ransom payments with the family.

On March 22, the FARC kidnaped 9-year-old Clara Oliva Pantoja and did not release her until December 19. On April 7, the FARC kidnaped 3-year-old Andres Felipe Navas; he had not been released by year's end. Both children reportedly were held in the FARC demilitarized zone. Several released kidnaped victims claim that the FARC is holding more than 200 persons in the despeje zone.

In March the ELN kidnaped 25 electrical company workers at Guatape, Antioquia. The kidnapings were part of the ELN's campaign against the country's civilian electrical infrastructure.

On September 17, the ELN kidnaped over 50 patrons of Cali restaurants. Roughly a dozen were released within a few days. After combined negotiation and military pressure, the remaining survivors were released by November, although three had died while in captivity due to illness after lengthy forced marches while the kidnapers attempted to evade the army. Over the objections of the army commander in charge of rescue, the Government allowed the captors to remain free in return for release of the remaining hostages. Brigadier General Jaime Canal Alban, commander of the 3rd Brigade, resigned to express his disagreement with the Government's decision.

On November 28, unknown assailants kidnaped 18-year-old Juliana Villegas, daughter of the head of the National Association of Industrialists, a strong supporter of the peace process; guerrillas were suspected.

Guerrillas continued to kidnap political leaders. For example, in October the FARC kidnaped a gubernatorial candidate in northern Choco department, Senator Juan Mesa, and Antioquia assemblyman Alvaro Velasquez. The Federation of Colombian Municipalities reported that at least 20 mayors were kidnaped during the

year, nearly all by guerrilla groups. Many more unreported kidnappings of short duration may have been carried out. In response to this situation, some rural mayors fled to major cities, where they continued to conduct municipal business via telephone and facsimile. Guerrillas also kidnaped journalists (see Section 2.a.).

The FARC, the ELN, and other guerrilla groups regularly kidnaped foreign citizens throughout the year; some were released after weeks or months of captivity. For example, in July a representative of Doctors without Borders was kidnaped by a fringe guerrilla group and had not been heard from at year's end. In August the ELN captured and held 26 university professors and students, including several foreigners, for several days before releasing the group.

On April 8, the DAS captured ELN leader Ovidio Antonio Parra Cortes, who had been sought for his role in directing the May 1999 kidnaping of 174 persons from Cali's La Maria Catholic Church. The army's Third Brigade also arrested seven men believed to have helped carry out the La Maria hostage-taking.

By year's end, all of the 41 occupants of an airplane hijacked by the ELN in April 1999 had been released; 1 died in captivity in 1999 due to a lack of needed medications.

Despite government search efforts and continued pressure by the Government on the FARC to account for three American missionaries kidnaped by FARC guerrillas in January 1993, their whereabouts and condition remained unknown.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and criminal law explicitly prohibit torture, as well as cruel, inhuman, or degrading treatment or punishment; however, police and military torture and mistreatment of detainees continued. On May 30, Congress codified torture as a crime (see Section 1.b.), and the reformed Military Penal Code directed that cases of torture involving military and police defendants be tried in the civilian, rather than the military, courts. The Attorney General's office, which only can sanction administratively or refer to the Prosecutor General's office those it finds guilty, did not sanction any security force members for torture during the year. Contrary to previous years, the Attorney General's office, which received 119 complaints of torture in 1998, did not receive any complaints of torture by state agents during the year. The Colombian Commission of Jurists reported one case in the period from October 1999 to March. During the first 9 months of the year, CINEP reported that 79 persons were injured by state forces. During the year, the Military High Court convicted 52 service members for causing injuries.

The Colombian Commission of Jurists reported that from October 1999 through March, 136 corpses of persons presumed killed by paramilitary forces showed signs of torture; there were 14 similar cases attributed to guerrillas; one case attributed to an unidentified unarmed group; and none by the State. Of victims who survived torture, the Commission attributed one case to public security forces and four cases to paramilitary groups. In March the Ministry of Defense reported that the Superior Military Tribunal convicted 53 service members for inflicting bodily injuries.

On March 10, a Bogota prosecutor issued an arrest warrant for four policemen for allegedly beating detainees Jorge Amilkar Murcia, Juan Antonio Rodriguez Ochoa, and a third unnamed victim, taking them to a bridge, and forcing them to jump. Rodriguez survived and reported the crime to the authorities; Murcia's body was never found.

According to Human Rights Watch, on June 18, troops from the Rebeiz Pizarro Battalion fired upon a car carrying six adults and two children; all occupants were wounded.

In December the Prosecutor General's human rights office indicted Colonel Jose Ancizar Molano Padilla (then-commander of the 2nd Marine infantry battalion), Captain Alvaro Hernando Moreno, Captain Rafael Garcia, Lieutenant Carlos Eduardo Jaramillo, and four noncommissioned officers for torturing 12 marines with asphyxiation and electric shocks in December 1995. The victims were tortured to determine the whereabouts of two lost assault rifles. Colonel Molano and his accused subordinates remained in detention and are expected to be tried in a civilian court. In December the Attorney General's office concluded its investigation of the same incident and ordered a 3-month suspension from duty for Colonel Molano. It also suspended Captain Moreno, Lieutenant Jaramillo, seven noncommissioned officers, and one private.

Four Venezuelans arrested in May 1999 in the course of a military antiguerrilla operation who subsequently claimed that the 3rd army Special Forces Battalion tortured and inflicted other cruel, inhuman, and degrading punishment against them were remanded to the custody of the Venezuelan Embassy and finally allowed to return to Venezuela. The Venezuelan Government also asked for an investigation in relation to five other persons who were with these four men at the time of their

capture. The bodies of two of these five persons subsequently were found in a river; the other three allegedly disappeared following the operation.

Paramilitary groups increasingly used threats both to intimidate opponents and to raise money. Letters demanding payment of a war tax and a threat to mark victims as a military target if they failed to pay were typical. In 1999 CINEP reported that nearly half of those threatened were public school teachers and that approximately half of all threat recipients were residents of Antioquia department.

Guerrilla groups also tortured and abused persons. The bodies of many persons detained and subsequently killed by guerrillas showed signs of torture and disfigurement. For example, one soldier captured by the FARC was subjected to several machete blows to the head until the entire left side of his head was destroyed. While he was still alive, his genitalia were cut off and acid was poured on his face. The military reported that another soldier and his brother were captured by the FARC while on a bus, subsequently were tortured and decapitated, and their heads were sent to their father inside a box. The Colombian Commission of Jurists reported 17 cases of torture by guerrillas during the period from October 1999 to March.

Guerrillas also routinely used threats, both to intimidate opponents and to raise money, and—like the paramilitary groups—sent letters demanding payments of a war tax, along with threats to make persons military targets. Guerrillas also killed, kidnaped, and threatened mayoral candidates (see Section 3).

According to press reports, in July explosive devices damaged three businesses in downtown Barrancabermeja, Santander department. The authorities stated that the ELN demanded that local businessmen attend a mandatory meeting and that the bombs were punishment against those who failed to attend. In April the FARC announced “Law 002,” which required persons with more than \$1 million in assets to volunteer payment to the FARC or risk detention. In August the FARC bombed as many as 13 businesses in Medellin in retaliation for nonpayment of a FARC-imposed “war tax.”

Prison conditions are harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In December 1997, a visiting IACHR mission declared that the living conditions in Bogota’s La Picota prison constituted “cruel, inhuman, and degrading treatment of the inmates,” and these problems continue. Prison guards from the INPEC report to the Ministry of Justice. There are approximately 7,000 prison guards. Guards and prison staff frequently are untrained or corrupt. In response to what was called a “disciplinary emergency,” INPEC’s disciplinary office reported in September that it had removed 159 prison guards and was investigating 651 INPEC officials for irregularities in performing their duties. Prisoners are suspected of killing or ordering the killing of 22 guards in 1999.

According to the Committee for Solidarity with Political Prisoners, a majority of prisoners’ food was provided by outside, private sources. In 1999 INPEC reported that the daily food allowance for each prisoner was \$1.44 (2,700 pesos). According to INPEC, the country’s prisons and jails held approximately 50,702 inmates at year’s end, significantly more than their capacity of 31,000 persons. The addition of a new prison in Valledupar, Cesar department, and the renovation of other facilities added 3,000 spaces over the past 3 years but was offset by an increase of approximately 10,000 prisoners over the same period. According to the Ministry of Defense, 20 percent of the country’s inmates are in the 10 most crowded prisons, which have an average occupancy rate of 200 percent. In a number of the largest prisons, overcrowding was severe. Medellin’s Bellavista prison, the country’s largest, was built to house 1,800 inmates; at year’s end, it housed 6,575 inmates. Bogota’s La Modelo prison had a 169 percent occupancy rate, and the Palmira prison outside Cali held 192 percent above its planned capacity.

In February the Justice Ministry announced a plan to renovate prisons and build 11 other new prisons over the next 3 years, expanding prison capacity by 18,000 persons. In July Congress approved the financing of the remaining announced facilities. Only 8,000 prisoner accommodations met international standards. A total of 17.8 percent of the country’s prisons were between 40 and 80 years old, 3.5 percent were between 80 and 201 years old, and 2.4 percent were more than 201 years old.

In November approximately 12,000 women and children, who were visitors to the prisons, protested prison conditions by spending 72 hours inside 7 prisons, including Bogota’s La Modelo. The Government negotiated with inmate representatives and human rights NGO’s to ensure the peaceful exit of the protesters by agreeing to convoke the National Roundtable on Penitentiary Work, an intersectoral commission that includes inmate representatives, in December.

An estimated 42 percent of all prison inmates are pretrial detainees. The remaining 58 percent are split roughly between those appealing their convictions and those who have exhausted their appeals and are serving out their terms. There are no

separate facilities for pretrial detainees and convicted prisoners. According to the Ministry of Defense, 4,145 persons (8 percent of inmates) are in pretrial detention in police stations. Despite an August 1999 Constitutional Court ruling which obligated the transfer of detainees from overcrowded police station holding cells to prisons, Bogota's 21 police stations still hold 1,657 prisoners awaiting transfer to prisons.

Local or regional military and jail commanders did not always prepare mandatory detention registers or follow notification procedures; as a result, precise accounting for every detainee was not always possible.

There are separate prison facilities for women, and in some parts of the country, separate women's prisons exist. Conditions at women's prisons are similar to those at men's prisons but are far less violent. According to the Criminal Procedures Code, no one under the age of 18 may be held in a prison. Juveniles are held in separate facilities operated by the Colombian Institute for Family Welfare (ICBF).

The reformed Penal Code requires sentences of 3 to 6 years for prison escapes. Escapes from prison continued to be a problem. There were six major riots in prisons. On February 3, six prisoners were killed and two were wounded during a confrontation between members of paramilitary groups and guerrillas at Bogota's La Picota Prison.

In April members of paramilitary groups and guerrillas engaged in a 12-hour battle inside Bogota's La Modelo prison, ending a 2-month truce, and employed a wide variety of firearms and other weapons. Thirty-two inmates were killed, and 35 were wounded. In response, 1,200 members of the National Police entered La Modelo prison to retake control. Among prohibited items found were cellular telephones, handguns, shotguns, assault rifles, hand grenades, explosives, dogs trained to attack, illicit drugs, and alcohol. Police found a sauna and gym in a FARC commander's cell and also discovered a working brothel. Authorities brought a variety of charges, including homicide and rape, against 20 prisoners. In July Jorge Ospina Trujillo, reportedly a member of a paramilitary group, escaped from the Bellavista prison in Medellin, Antioquia department. According to the authorities, Ospina was one of the prisoners responsible for the April massacre in La Modelo prison in Bogota.

Guerrillas launched several attacks against prisons holding guerrilla prisoners, facilitating numerous escapes. For example, during its April 2-3 offensive, the ELN attacked a prison at Cucuta, Norte de Santander department, initiating the attack with a car bomb. Some 75 prisoners, including approximately 50 ELN and FARC guerrillas, escaped. Four prisoners were killed and four prisoners were wounded in the fighting.

Key narcotics traffickers and some guerrilla leaders obtain cells with many comforts, some of which—such as access to two-way radios, cellular telephones, and computers—allowed them to continue their illegal activities from inside jail. In July the authorities dismantled a sophisticated telecommunications center in the district and Picalena prisons in Ibague, Tolima, department. Fortysix prisoners between the 2 prisons used cellular telephones to extort money or negotiate ransom. To prevent this type of activity, on July 27, President Pastrana announced that he would issue a resolution making it mandatory for telephone companies to provide caller identification service to all customers.

The International Committee of the Red Cross (ICRC) continued to have routine access to most prisons and police and military detention centers.

The ICRC continues to have ad hoc access to civilians held by paramilitary groups and guerrilla forces. However, it has not been granted access to members of the police or military who are held by guerrilla groups.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be instances in which the authorities arrested or detained citizens arbitrarily.

The law prohibits incommunicado detention. Anyone held in preventive detention must be brought before a prosecutor within 36 hours to determine the legality of the detention. The prosecutor must then act upon that petition within 36 hours of its submission. Despite these legal protections, instances of arbitrary detention continued.

Conditional pretrial release is available under certain circumstances, for example, in connection with minor offenses or after unduly lengthy amounts of time in preventive detention. It is not available in cases of serious crimes, such as homicide or terrorism.

Guerrillas, particularly the FARC, pressed the Government and Congress to adopt a permanent prisoner exchange law. Initiating regular prisoner exchanges remained a top guerrilla priority and featured prominently in the FARC's negotiating points at the peace talks. Neither the Congress nor the Government attempted to pass

such legislation, and there was minimal popular support for it during much of the year. On September 27, the Attorney General proposed the implementation of an existing law that allows for the exchange of prisoners during armed conflict. In October the public debate on prisoner exchange revived when photographs emerged of 261 police and military hostages being held in outdoor fenced enclosures. The U.N. High Commissioner for Human Rights (UNHCHR) expressed deep concern for the well-being of the hostages and called on the FARC to permit ICRC access. At year's end, 527 soldiers and police are presumed held by the FARC and ELN, and the ICRC had not been permitted access to them.

The Constitution prohibits exile, and forced exile is not practiced by the State. However, there were repeated instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, human rights workers, slum-dwellers, business executives, farmers, and others. The threats came from various quarters: some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, other criminal elements, or combinations of the above.

*e. Denial of Fair Public Trial.*—The civilian judicial system, reorganized under the 1991 Constitution, is independent of the executive and legislative branches both in theory and in practice; however, the suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved is common. The Human Rights Ombudsman's office reported receipt of 773 complaints of denial of the right to due legal process during 1999, the most recent year for which statistics were available. The office received 1,353 complaints in 1998.

The judiciary includes the Constitutional Court, Supreme Court of Justice, and the Council of State, the Superior Judicial Council, and lower courts. The Prosecutor General's office is an independent prosecutorial body that brings criminal cases before the courts. Article 234 of the new Military Penal Code states that the Supreme Court (not the Superior Military Tribunal) has first instance jurisdiction in cases involving criminal acts by generals, admirals, major generals, vice-admirals, brigadier generals, rear admirals, and magistrates and prosecutors of the Superior Military Tribunal. Cases that already were in their trial phase by August 12, 1999, must continue under the old military penal code; however, this article applies to all cases brought to trial after that date, regardless of when the crime was committed. Article 234 also states the Supreme Court is the court of second instance review of rulings by the Superior Military Tribunal, effectively asserting the authority of the Supreme Court—a body composed entirely of civilian magistrates over the military judiciary. The Council of State is the appellate court for civil cases. The Constitutional Court adjudicates cases of constitutionality, reviews all decisions regarding writs of protection of fundamental rights (“*tutelas*”), and reviews all decisions regarding motions for cessation of judicial proceedings. Jurisdictional clashes among the Constitutional Court, Supreme Court of Justice, the Council of State, and the Superior Judicial Council were common, due to the lack of a single supreme judicial authority capable of deciding issues of jurisdiction or constitutional interpretation.

The CSJ, which oversees the administration of the judiciary, also has the responsibility of determining whether individual cases involving members of the security forces are to be tried in civilian or military courts. On August 17, President Pastrana issued a directive to the armed forces and the police that stated that the new Military Penal Code “excludes from military criminal jurisdiction the crimes of genocide, torture, and forced disappearance” and that “acts against humanity do not fall under the jurisdiction of the military courts.” The directive also “raises to the category of law” a 1997 Constitutional Court decision that serious human rights violations and other crimes not directly related to acts of service must be tried by civilian courts.

On April 6, the Constitutional Court overturned much of the 1999 law that had created the specialized jurisdiction (which had replaced the anonymous (“*faceless*”) regional courts system on July 1, 1999). The Constitutional Court found that defendants have the right to know the identity of their accusers and that elements of the law that permitted some prosecutors and witnesses to remain anonymous under exceptionally dangerous circumstances were unconstitutional. The Court ruled that specialized jurisdiction judges and prosecutors no longer could transfer cases to other colleagues when they believed their own security to be at risk. The Court also ruled that persons detained for any of the crimes designated in the legislation may request to be confined in their homes and may request special permission to go to work, as is the case in the regular civilian judiciary. The Court permanently closed the appeals court for the specialized jurisdiction. The remaining first instance specialized jurisdiction courts continued to have responsibility for trying certain crimes, including crimes of kidnaping, hijacking, paramilitarism, narcotics trafficking, money laundering, and human rights abuses. Specialized jurisdiction prosecutors

still are permitted 12 months to investigate and develop cases, rather than the 6 months afforded to regular civilian judiciary prosecutors.

As part of the Ministry of Defense, the military judiciary falls under the executive branch, rather than under the judicial branch. The armed forces commander is also the president of the military judiciary. The workings of the military judiciary lack transparency and accountability, contributing to a generalized lack of confidence in the system's ability to bring human rights abusers to justice. On August 12, a new Military Penal Code replaced the outdated one, which predated the 1991 Constitution and did not contemplate some contemporary crimes. (President Pastrana signed it into law in August 1999.) The Constitutional Court ruled that no implementing legislation was needed and instructed the Ministry of Defense to implement the new Military Penal Code. Provisions of the new code include the following: unit commanders no longer may judge their subordinates; an independent military judicial corps is to be created; and service members are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. The reformed code states that torture, genocide, and forced disappearance could never be related to "acts of service," which is the constitutional standard for trying crimes in the military judiciary, and stipulates that these crimes therefore always must be tried in the civilian judiciary (see Sections 1.a. and 1.b.). The reformed Military Penal Code also gives representatives of the civilian judiciary the right to be present at military trials of military personnel.

The new military justice system is composed of magistrates of the Military Court of Appeals, lower military court judges, investigating judges, prosecutors, and judge advocates (*auditor de guerra*) at the General Inspector, division, and brigade levels. Brigadier General Jairo Pineda was appointed to head the Executive Directorate of the military penal justice system and is to report directly to the Minister of Defense, a civilian. Military prosecutors report to Brigadier General Pineda, not to unit commanders as under the previous system.

According to press reports, on August 16, the Military Penal Tribunal appointed its first three prosecutors as part of the new Military Penal Code. New prosecutors also were appointed for the military forces as a whole and one for each branch of the military and the police. On August 17, the prosecutors began to analyze and rule in military proceedings.

A 1997 Constitutional Court decision directed the military judicial system to relinquish to the civilian judiciary the investigation and prosecution of serious human rights violations and other alleged crimes not directly related to acts of service—the 1991 constitutional standard for determining whether a case should be tried by the military or civilian judiciary. The CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were the rare exception. According to the 1991 Constitution, general-rank officers are to be tried by the Supreme Court; however, that provision was ignored in practice. No definitive court ruling has resolved various judicial interpretations of the provision; however, a majority of decisions appear to suggest that this provision applies only to full generals. The Court ruled that military justice was the exception to the general rule and that, in the case of doubt, jurisdiction should be assigned to the civilian system. In determining which alleged crimes were to be tried by military tribunals, the CSJ sometimes employed a broad definition of acts of service, thus ensuring that uniformed defendants of high rank, particularly the most senior, were tried in military tribunals. During the year, the CSJ assigned two key cases to civilian jurisdiction: the case against Major Clavijo and the Nydia Bautista case (see Section 1.a.). In addition, CSJ figures quoted by the Ministry of Defense indicated that, where conflicts of jurisdiction arose, the total number of cases assigned to military courts dropped from 50 percent in 1992 to approximately 15 percent in 2000, while cases assigned to civilian jurisdiction rose from 40 percent in 1992 to 60 percent over the same period.

According to figures released by the Ministry of Defense in December, since the 1997 Constitutional Court decision, the military judiciary has transferred 1,136 cases to the civilian judicial system; there was no information available as to how many of these cases dealt specifically with human rights abuses or violations of international humanitarian law, nor how many cases remained in the military judicial system. However, a March report by the Ministry of Defense reports that 41 percent of the cases transferred involved serious crimes such as homicide, torture, illegal detentions, and infliction of bodily injuries; the rest were common crimes. Out of the total of 1,307 police and military cases transferred, 496 cases were transferred during the year, 79 in 1999, 266 in 1998, 295 in 1997, and 171 cases were transferred on an unknown date. According to year-end report of the Ministry of Defense, the military judiciary during the year found 122 members guilty of violating

“human or fundamental rights.” The average prison sentence was 58 months for homicide and 15 months for inflicting bodily injury.

The military judiciary demonstrated an increased willingness during the year to turn cases of military officers who were accused of human rights violations or criminal activities over to the civilian judiciary; however, such officers generally were of lower rank. A July CSJ ruling suggested that it considered itself bound by the Constitutional Court’s 1997 decision that certain human rights violations could not be considered acts of service and therefore must be tried in civilian courts. Between January and November, 80 cases were transferred.

In October 1998, the CSJ had determined that Brigadier General Fernando Millan Perez’s alleged organization of a paramilitary group constituted an act of service and therefore had turned General Millan’s case over to the military judiciary for prosecution (see Section 1.a.). In reaching its decision, the CSJ had determined that it was not bound by the Constitutional Court’s narrow 1997 interpretation of the 1991 constitutional standard of relation to acts of service. The CSJ’s decision effectively ended the Prosecutor General’s investigation into whether General Millan had provided weapons and intelligence to paramilitary groups in Santander department.

On September 14, President Pastrana signed 12 decrees to reform and strengthen the military. One decree provides for the separation from service of all uniformed members of the military regardless of their time in service, at the discretion of the top military commanders. Previously, the Minister of Defense could at his discretion separate from service only those who had served at least 15 years in the military. Other decrees establish three levels of misconduct and the crimes classified at each level. A total of 27 crimes are punishable with immediate dismissal; these include: Torture, forced disappearance, genocide, facilitating by any means the knowledge of protected information or access to classified documents without authorization, failure to enter into combat or to pursue the enemy having the capacity to do so, and retreating before the enemy or abandoning post without having used elements of defense that might be available. A higher-ranking officer such as a unit commander is granted initial authority to issue disciplinary sanctions. Those under investigation may be suspended for up to 90 days with half pay; those suspended may perform administrative duties. The decrees also state that in the event that another authority should be informed of crimes, the military must inform that authority and provide all relevant information to it. Another decree states that, with limited exceptions, any officer sentenced to prison by the military or the civilian justice system is to be separated from service.

On October 16, the military dismissed 388 members of the armed forces, including 89 officers. According to press reports, these included 2 lieutenant colonels and 15 majors. No information was available from the Ministry of Defense regarding the specific reasons for any of the dismissals, nor were their names announced; it was not known how many were dismissed due to allegations that they were responsible for human rights abuses or for collaborating with paramilitary groups in such abuses.

In cases in which military officers were tried, convicted, and sentenced for human rights violations, they generally did not serve prison terms but were confined to their bases or military police detention centers, as permitted by law. Military prisoners remain on active duty (and reduced pay) while in detention but are relieved from command responsibilities. In other cases members of the military can be suspended pending investigation, as occurred in the August Pueblo Rico killings (see Section 1.g.). Some perform administrative functions while in detention. Armed Forces Commander General Tapias cited a lack of adequate military prison facilities as a primary cause for escapes from military detention areas. For example, on March 14, suspected Casanare department paramilitary leader Humberto Caicedo Grosso escaped from military confinement at the 14th Brigade’s headquarters. The authorities detained five brigade members for failing to stop Caicedo’s escape.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws (see Section 5).

Judges have long been subject to threats and intimidation, particularly when dealing with cases involving members of the public security forces or of paramilitary, narcotics, and guerrilla organizations. Violent attacks against prosecutors and judges continued, and prosecutors, judges, and defense attorneys continued to be subjected to threats and acts of violence. On April 3, specialized jurisdiction prosecutor Margarita Maria Pulgarin Trujillo was killed in Medellin; AUC members were the prime suspects in her killing. Prosecutors reported that potential witnesses in major cases often lacked faith in the Government’s ability to protect their anonymity and were thus unwilling to testify, ruining chances for successful prosecutions. In June Congress approved Penal Code and Penal Procedural Code reforms

that created a number of new crimes such as genocide (see Section 1.b.), but reduced the sentences for a number of serious crimes, including kidnaping and extortion, and the amount of time served necessary for parole. The new Penal Code and Procedural Code are scheduled to go into effect in 2001. It still was difficult for defense attorneys to impeach or cross-examine anonymous witnesses, and often the defense attorneys did not have unimpeded access to the State's evidence.

The Attorney General's office investigates misconduct by public officials, including members of the military and police. The Attorney General's office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,085 municipalities. The office received 78 complaints related to massacres and forced disappearances during the year. Approximately 75 percent of these complaints involved the army (particularly in Putumayo, Antioquia and southern Bolivar departments); the other 25 percent implicated police or DAS officials. Its constitutional mandate only provides for the imposition of administrative sanctions; it has no authority to bring criminal prosecutions or impose criminal sanctions but can refer all cases to the Prosecutor General's office for investigation. Contrary to previous years, the Attorney General's office referred all cases of human rights violations received during the year to the Prosecutor General for investigation. The Attorney General's office reported that the majority of these cases are investigated by the Prosecutor General's office.

In August a judge convicted of "corrupt practice" for her 1999 exoneration of billionaire emerald magnate Victor Carranza on charges of paramilitarism was released after serving less than half of her 46-month term. Carranza remained in prison due to his prior convictions for homicide and kidnaping.

The Supreme Court elects the Prosecutor General for a 4-year term, which does not coincide with that of the president, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic legal system to a mixed one that incorporates an adversarial aspect.

In an attempt to deal with impunity, the Prosecutor General in 1995 created a special human rights unit as part of the regional courts system. The unit has achieved significant results; as of November, its group of 30 anonymous prosecutors had handled 918 cases involving massacres, extrajudicial killings, kidnapings, and terrorism during the year. These prosecutors have issued arrest warrants against members of the security forces and of paramilitary, guerrilla, and drug trafficking organizations. The unit arrested 192 suspects during the year.

During the year, the human rights unit of the Prosecutor General's office investigated, indicted, or prosecuted 286 security force members, including at least 11 officers, on a variety of charges including homicide, torture, kidnaping, and sponsorship of paramilitary groups. The Attorney General's office and the security forces demonstrated a greater willingness to follow up with instructions that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities. However, impunity continued to be very widespread.

The Constitution specifically provides for the right to due process. Judges determine the outcome of all trials; there are no jury trials. The accused is presumed innocent until proven guilty and has the right to representation by counsel, although representation for the indigenous and the indigent historically has been inadequate. In mid-1999, the CSJ's administrative chamber reported that the civilian judiciary suffered from a backlog of approximately 3,069,000 cases (including approximately 604,000 penal cases) and that there were approximately 338,000 outstanding arrest warrants. Approximately 223,000 writs for protection of fundamental rights ("tutelas") were before the Constitutional Court for its legally mandated review.

Defendants in trials conducted by the regular courts have the right to be present and the right to timely consultation with an attorney. Regular court defendants and their attorneys have the right to question, contradict, and confront witnesses against them, to present witnesses on their own behalf, and to have access to government evidence relevant to the case. The country's judiciaries, including regular civilian, specialized jurisdiction, and military, continue to be overwhelmingly Napoleonic in character; everything is processed in writing. Public trials are still rare, and there are no juries; however, cross-examination of witnesses does occur. Defendants also have the right to appeal a conviction to a higher court.

In addition to providing public defense attorneys in criminal cases, the Human Rights Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights

violations. However, in practice, the Ombudsman's operations are underfunded and understaffed, slowing its development of a credible public defender system.

Within the FARC-controlled despeje zone, local FARC leaders effectively supplanted judicial authorities and declared the establishment of an alternative, FARC-run "justice system." Residents of the zone regularly were denied the right to a fair trial. In the face of FARC intimidation, all elements of the civilian judiciary fled the zone. In 1999 Prosecutor General Alfonso Gomez Mendez publicly said that they would return only "when accompanied by the security forces." In September the FARC gave haven to a FARC guerrilla who had hijacked an airplane and refused to release him to government authorities. Continuing concern about arbitrary FARC justice in the zone led the authorities to stress that governmental justice must be present.

The Government states that it does not hold political prisoners. The ICRC reported that it monitored approximately 3,900 cases of imprisoned citizens accused of terrorism, rebellion, or aiding and abetting the insurgency, which are crimes punishable under law.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the protection of these rights; however, at times the authorities infringed upon them. The law generally requires a judicial order signed by a prosecutor for the authorities to enter a private home, except in cases of hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional and human rights. Due to intimidation, corruption, or the absence of evidentiary proof collected directly by prosecutors, guerrilla suspects captured by the security forces in or out of combat and turned over to the judicial authorities routinely were set free.

A judicial order or the approval of a prosecuting attorney is required to authorize the interception of mail or the monitoring of either landline or cellular telephones. This protection extends to prisoners held in jails. However, various state authorities sometimes monitored telephones without obtaining prior authorization. There were unconfirmed reports by some human rights groups that members of the security forces subjected them to surveillance, harassment, or threats.

A preliminary investigation begun by the Prosecutor General's anticorruption unit in December 1999 determined that elements of the Administrative Department of Security had engaged in illegal wiretapping in Bogota over the course of several years. As of April, eight DAS officers were in custody, and another officer was sought. Having found sufficient evidence, on June 20, the Prosecutor General opened a formal investigation. This was the first instance in which the Prosecutor General pressed charges against a state entity for interference with privacy. The investigation continued at year's end.

Guerrillas also used wiretaps and accessed bank accounts of citizens at roadblocks in order to select kidnap victims.

There are some child soldiers among the paramilitary groups, who were recruited forcibly (see Sections 1.g and 5).

Guerrillas regularly forcibly recruited children and indigenous people to serve as soldiers (see Sections 1.g and 5).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The internal armed conflict and narcotics trafficking are the central causes of violations of human rights and international humanitarian law. Government security forces at times violated international humanitarian law and continued to commit serious human rights abuses, although the great majority of serious abuses were committed by paramilitary groups and guerrillas.

In October the ICRC suspended evacuations of wounded combatants after the murder of a wounded guerrilla by paramilitary forces near Apartado, Uraba region, Antioquia department, and of a wounded member of a paramilitary group by guerrillas in Putumayo. In both cases the victims forcibly were taken from ICRC vehicles. The ICRC resumed medical evacuations of combatants in December.

On February 24, the Government announced the creation of an interagency intelligence committee, chaired by the Minister of Defense and including members of the police, the Prosecutor General's office, the Attorney General's office, and the DAS, to improve the State's ability to track down and engage or capture members of paramilitary groups. However, at year's end there was little tangible evidence that the committee was functioning.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC and readily incorporated Red Cross curriculums on international humanitarian law in standard military training. However, impunity remains a problem. According to military sources, local commanders typically preferred to transfer or discharge soldiers accused of serious human rights violations, rather than initiate legal proceedings. On May 30, Congress passed legislation

that codified forced displacement as a crime and provided for sentences of between 15 and 40 years' imprisonment; the legislation also codified genocide and forced disappearance as crimes (see Section 1.b). Departing from the historical, internationally accepted definition of genocide, and in response to the killings of thousands of members of the Patriotic Union leftist coalition (see Section 1.a.), the law codified "political genocide" as a crime. However, it stipulated that political genocide could be committed only against members of legally constituted (i.e., nonguerrilla) groups.

On August 15, an army unit of 30 soldiers operating near Pueblo Rico, Antioquia, mistook a party of schoolchildren for a guerrilla unit and opened fire, killing 6 children between the ages of 6 and 10, and wounding 6 others. According to press interviews, the soldiers did not realize at the time that the persons that they were shooting were children. On September 28, a military justice panel provisionally disassociated 14 of the soldiers and allowed them to return to duty. The remaining 16 soldiers, including patrol commander Sergeant Jorge Enrique Mina Gonzalez, remained under investigation at year's end. On December 22, the Attorney General charged Sergeant Mina, and corporals Avilio Pena Tovar and Ancizar Lopez, stating that the three confused a 15-year-old girl in the group with a guerrilla but that they willfully used indiscriminate force. The Attorney General's office exonerated the other 27 soldiers involved in the incident. The Prosecutor General's office determined that the act was unintentional harm caused in the course of duty and referred the case to the military justice system, where it remained at year's end.

In May the human rights unit of the Prosecutor General's office recommended that the air force reopen its investigation into the December 1998 Santo Domingo, Arauca department, incident in which an air force helicopter was accused of bombing civilians in the course of combat with the FARC. A total of 19 civilians were killed, and 25 others were wounded. The Prosecutor General's office based its recommendation on new evidence after the office subpoenaed three helicopter crew members and obtained an analysis of metal shards. An air force commander reportedly charged the FARC with planting shards at the scene. In December the air force revisited the zone prior to making a decision on whether to open formally an investigation. In November the Attorney General's office charged air force lieutenants Johan Jimenez Valencia and Cesar Romero Pradilla (the pilot and copilot of the helicopter) and flight technician Hector Mario Hernandez Acosta with indiscriminate use of force.

According to the Independent Advisory Committee for Human Rights and Displacements (CODHES), 317,340 displacements of civilians from their homes occurred during the year; government sources estimate that 125,000 persons were displaced. (Exact numbers of displaced persons are difficult to obtain because some persons were displaced more than once, and many displaced persons do not register with the Government or other entities.) According to CODHES, approximately 288,000 displacements occurred during 1999. As many as 1 million citizens may have been displaced since 1996. The ICRC provided emergency assistance to 135,000 displaced persons during the year. An alliance of human rights, religious, and aid organizations stated that an estimated 2 million persons had been displaced by political violence since 1985. CODHES states that some persons have been displaced for as long as 10 years, but it is unable to identify a typical timeframe for displacement. Some persons return to their homes within days or weeks, others within months, and some never return. Some displaced persons move several times after fleeing their original home, making tracking difficult. The Government does not consider persons to be displaced after 2 years. CODHES estimated that perhaps 65 percent of displacements became permanent. In an attempt to determine the true scope of the problem, the Government, in cooperation with the U.N. High Commissioner for Refugees (UNHCR), developed a computerized system for collecting data on the displaced and estimating total numbers.

The vast majority of displaced persons are peasants who have been displaced to cities, which have had difficulty integrating large numbers of persons into their infrastructure. According to CODHES, in 1999 approximately 53 percent of displaced persons were women and girls, 32 percent of displaced households were headed by women, and 70 percent of the displaced population were children. The Human Rights Ombudsman's office reported that only 15 percent of displaced children have access to schools. Many displaced persons settle on the outskirts of Bogota, Medellin, and Cartagena, where conditions are overcrowded and unsanitary, and smaller municipalities have been overwhelmed by the need for services. Malnutrition among displaced children is a problem. Many displaced persons lost access to health care, employment, and education (see Section 5). CODHES estimates that only 34 percent of displaced households have access to health services. According to the UNHCR, approximately one-third of displaced persons are indigenous people or blacks; these groups represent only 11 percent of the population. In 1999 the office

of the U.N. Commission on Human Rights received reports of threats and attacks against displaced communities and their leaders; threats against individuals and groups working with the displaced increased in 1999, especially in the regions of Magdalena Medio and Uraba.

Both paramilitary groups and guerrillas used forced displacements to gain control over disputed territories and to weaken their opponents' base of support. In some cases, entire towns were abandoned after paramilitary or guerrilla attacks. The authorities sometimes encouraged civilian populations to move back to their homes before security situations had normalized.

The Government's response to the needs of the displaced population continued to be inadequate. The Government has no systematic program or budget to make adequate provisions for humanitarian assistance to the displaced, although it is required by law and court decisions to do so. Conditions at the Government's two camps for displaced persons in Uraba, at Pavarando and Turbo, were poor and unhygienic; health care remained poor, and there were few educational or employment opportunities. However, conditions at a temporary government shelter for displaced persons at the stadium at Cucuta, Norte de Santander department, were much better. The Government provides assistance through the Solidarity Network, the ICBF, the Health Ministry, and other state entities. The Solidarity Network was neither designed nor prepared for emergency humanitarian assistance work, and it usually provided such assistance only to refugees returning to the country. In March 1999, the Government estimated that the ICRC provided 70 percent of humanitarian assistance received by displaced persons. Private estimates were higher. Most displaced citizens receiving ICRC emergency humanitarian assistance received it for only 90 days. The Government also tries to limit assistance to 90 days; however, some displaced persons in the camps at Turbo and Pavarando, and in a stadium in Cucuta, received aid for a longer period. During the year, ICRC provided emergency assistance to 130,000 internally displaced persons.

Hundreds of displaced persons also fled to Panama, Ecuador, and Venezuela, where they often were denied refugee status, treated as illegal immigrants, and denied protection or assistance, and often were returned to Colombia. The UNHCR has an office in Bogota to address the problem and opened field offices in Barrancabermeja in 1999 and in San Jose de Apartado, Uraba and in Puerto Asis, Putumayo during the year.

On January 4, a group of internally displaced persons violently took over the ICRC's Bogota offices; they injured 3 local ICRC employees and detained 37 ICRC workers for 13 hours, then allowed most staff to leave the building. On February 22, such a group again forcibly detained members of the ICRC staff, a representative from the Attorney General's office, and two journalists for 9 hours. Also on that day, members of the same group tried to occupy the Bogota headquarters of the Social Solidarity Network; the police arrested them. In April the ICRC abandoned offices in Bogota that had been occupied by approximately 60 internally displaced persons since December 1999. Despite a December Constitutional Court ruling that the Government should assist the group, at year's end, the group still occupied the old ICRC premises.

According to the Vice President's office, there are more than 70,000 antipersonnel landmines in the country, located throughout 135 municipalities in 23 departments. Some 20,000 mines are maintained by the military to defend static positions. According to the International Campaign Against Mines, 63 persons were killed by mines in 1999. The Ministry of Defense reported that 10 military personnel were killed or wounded by antipersonnel mines during the first 7 months of the year. There is no generalized mine clearance program. However, in January the army deactivated 20 guerrilla landmines in southern Bolivar. Four civilians had been injured recently by landmines in the area. In August the military cleared two mine fields in Cundinamarca department. From 1998 to mid-2000, the Ministry of Defense reported that the military had cleared 120 FARC minefields and 39 ELN minefields.

The Human Rights Ombudsman's office reported continued violence against women, especially in war zones. It noted that most female victims in zones of conflict chose not to report the abuses they had suffered, in part due to a lack of confidence in the efficacy of governmental institutions to address their problems. The Ombudsman noted that female leaders of political and peasant organizations in the Uraba-Antioquia region were increasingly the targets of persecution, threats, torture, and executions. According to the Ombudsman's 1999-2000 report, intrafamilial violence, sexual assault, and murder of women remained serious problems throughout the country (see Section 5). More than 30 percent of FARC members are female.

Contrary to previous years, there were no reports during the year that the Government militarized public hospitals in conflict areas, which increased the risk that

the hospitals would become targets of guerrilla attack. In March the Constitutional Court ruled that state security forces could not maintain installations (such as police stations) next to schools, so as to not endanger the lives of students in case of guerrilla attack. The Ministry of Defense later announced a proposal to relocate police stations outside of city centers; however, this had not been implemented by year's end. In contrast to the previous year, there were no reports that the State refused medical treatment to guerrillas.

The many paramilitary groups are diverse in their motivations, structure, leadership, and ideology. The 1997 establishment of the United Self-Defense Groups of Colombia as a national umbrella organization was designed both to provide a national structure and to develop a more coherent political culture for the country's local and regional paramilitary groups. The AUC paramilitary umbrella group comprises an estimated 8,000 combatants, who are members of 7 major organizations. The largest of these organizations is the ACCU, which is based in Cordoba department and the Uraba region of Antioquia department. The AUC also has as many as 4,000 of its own combatants. Carlos Castano heads both the AUC and the ACCU. Although illegal, some paramilitary groups reflected rural citizens' legitimate desire to defend themselves from the guerrilla threat. Other groups were actually the paid, private armies of drug traffickers or large landowners. Many members of paramilitary groups are former security force members or former guerrillas. Some local army and police commanders tacitly tolerated—and sometimes aided and abetted—the activities of paramilitary groups, despite the public pronouncements of the Government and the public security forces high command that they intended to combat paramilitary violence. Elements of political and economic elites in these areas also supported paramilitary groups. The President, other government officials, the UNHCHR, and various NGO's noted increased popular support for paramilitary groups during the year. AUC leader Carlos Castano admitted publicly that his group receives funding from both legitimate businesses and from narcotics trafficking, and that the group is financed by "dominant businesses" in the regions in which it operates.

Paramilitary groups used selective killings and systemic massacres to force displacements and punish civilians for perceived ties to the guerrillas (see Section 1.a.). Paramilitary groups also launched several offensive campaigns characterized by a series of massacres linked by time or location.

The Fifth Brigade reported that in March troops of its 13th and 56th Battalions captured 25 suspected AUC members at San Rafael de Lebrija, Santander department. During the operation, the troops captured a significant amount of war material. Also in March, elements of the army's 46th Battalion, based at Tibu, Norte de Santander department, captured another three suspected members of paramilitary groups and killed one. One soldier was killed in the action. In February the National Police and the DAS captured north coast paramilitary chief Adan Rojas Ospino in Barranquilla, Atlantico department. Rojas, a key aid to AUC paramilitary chief Carlos Castano, was sought in connection with a series of massacres dating back to the 1980's, as well as to the 1994 killing of a congressman. On February 24, the DAS also announced the capture of Arnaldo Segundo Meza de la Rosa, the alleged chief of intelligence and finance operations for the paramilitary fronts operating in Sucre and Bolivar departments. Additionally, the DAS announced the capture in Monteria, Cordoba department, of an ACCU paramilitary leader.

Paramilitary groups on occasion used landmines and sometimes forced underage combatants into their ranks. Paramilitary forces failed to respect the injured and medical personnel. For example, in November members of a paramilitary group reportedly killed a patient on an ambulance driving from Tibu to Cucuta, Norte de Santander department, and declared the Tibu hospital a "military objective," causing several support staff to flee. In late October, presumed members of a paramilitary group kidnaped the same hospital's director, who later was found dead. In late September, paramilitary forces in the Uraba region dragged a wounded FARC member from a Red Cross ambulance and shot and killed her. In early October, the FARC stopped a Red Cross ambulance carrying a wounded paramilitary member and killed him. In response, on October 4, the ICRC suspended all assistance to wounded combatants. The ICRC resumed evacuation of wounded combatants in late December.

Guerrilla organizations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included killings, kidnaping, torture, targeting of civilian populations and installations, including medical facilities, and the forced recruitment of children as young as 10 years old. In response to President Pastrana's August 1999 call to all armed groups to obey international humanitarian law (the rules of war), the FARC responded that it would not abide by, and was not bound by, international humanitarian law.

Two main guerrilla armies, the FARC and the ELN, as well as the much smaller EPL and other groups, commanded an estimated total of between 11,000 and 17,000 full-time guerrillas operating in more than 100 semiautonomous groups throughout the country. These groups undertook armed actions in nearly 1,000 of the 1,085 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killings, forced disappearances, the mutilation of bodies, attacks on churches, attacks on hospitals, attacks on ambulances, and executions of patients in hospitals. Guerrilla groups also were responsible for multiple abuses of religious and medical personnel with protected status and of the wounded. Indiscriminate attacks on police stations resulted in high numbers of civilian casualties. Guerrillas also killed religious leaders (see Section 2.c.) and indigenous people (see Section 5).

Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. According to the Vice President's office, the FARC and ELN have laid indiscriminately 50,000 mines in rural areas. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. According to press reports, guerrilla bases in the despeje zone are surrounded by landmines. The FARC used sulfuric acid in the gas canisters that it employed as artillery, and continued its practice of using these canisters to attack small towns. Scores of soldiers, police, and civilians were burned indiscriminately as a result. For example, on August 19, two girls aged 13 and 14 years old, were killed when FARC guerrillas threw an explosive device into a hardware store in El Carmen de Bolívar, Bolívar department. In mid-December, a 9-year-old girl died buried in rubble when a gas canister destroyed her home in San Alfonso, Huila department, during a FARC attack. A 15-year-old female guerrilla also was killed in combat during the same attack.

Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, both it and the larger FARC regularly forced children into their ranks (see Section 5). Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem, and former child guerrillas have testified to this in the press. According to one press report, the Roman Catholic Church documented one case of a 13-year-old girl who was recruited by the guerrillas and used for sex before a nun persuaded them to release her. Child soldiers, including girls, were seen in guerrilla ranks in the despeje, and reports from various sources indicate that the guerrillas recruited at least 120 minors in the despeje. In addition, many families reportedly left the despeje (or have been displaced from other regions) to escape forcible recruitment of their children. According to press reports, in April FARC military commander Jorge Briceño Suárez ("Mono Jojoy") admitted that the FARC often had committed serious abuses against civilians and that the FARC made regular use of child combatants.

Guerrilla-paramilitary violence left a string of civilian casualties in the wake of ongoing targeted or massive killings by both sides. For example, in Barrancabermeja paramilitary and guerrilla elements killed 160 persons during the first 6 months of the year, the highest total in 5 years for this area. On December 11, the army's Human Rights Office posted on placards in Bogotá's central square the names of 3,289 civilians, of whom 11,596 persons were killed by paramilitary groups, and 693 persons by guerrillas. The names of more than 200 children were listed.

The FARC staged many attacks against municipalities outside of the despeje, possibly in a de facto effort to expand the demilitarized zone. According to the Ministry of Defense, between January and October, 74 guerrilla attacks on towns left 3,515 civilians dead. On July 12, the FARC attacked four towns in Huila and Tolima departments, destroying police stations, churches, schools, businesses, and homes. Four FARC groups attacked Alpujarra in southern Tolima department, and Colombia, Timana, and Vegalarga in Huila department. The attacks left 4 civilians dead and more than 15 persons wounded. The FARC attacked Vegalarga again 8 days later. As a result, more than 2,000 persons from Vegalarga, Colombia, Algeciras, and other towns fled to Neiva, capital of Huila department. On July 14, the FARC entered the town of Roncesvalles, Tolima department, and killed 13 policemen. According to press reports, the FARC attacked the mayor's office, various commercial buildings, a dozen homes, and the police station. After the police ran out of ammunition defending the station, they were killed upon surrendering.

Ending its unilaterally declared Christmas truce, on January 12, the FARC attacked four towns in Narino department. The attackers destroyed police stations, town halls, and a water plant. The FARC killed three policemen and one civilian

and kidnaped three other civilians. During the course of the attacks, FARC members also stole an ambulance and bombed the Trans-Andean oil pipeline near Ipiales, causing an oil spill. On January 15, approximately 500 guerrillas attacked four different points along the Bogota-Villavicencio highway. In confrontations among the army, the National Police, and the FARC, at least five civilians and five security force members were killed. The army reported that it killed 44 FARC combatants in action. Also on January 15, four National Police stations in southern Bogota were destroyed; one 11-year-old girl was killed by a grenade, and seven other civilians were reported wounded. The National Police suspected that the FARC was responsible for the attacks. According to press reports, in January the ELN kidnaped 15 persons southwest of Cartagena and then reportedly used 8 of its victims as human shields in confrontations with the police and the marines. One 19-year-old woman was killed in the crossfire.

During a January attack on the town of El Castillo, Meta department, indiscriminate FARC use of homemade artillery resulted in the destruction of the town church, hospital, school, town hall, and at least 20 homes. Eight FARC guerrillas, all estimated to be between the ages of 13 and 15, were killed during the attack. Nine civilians were killed, and four civilians were wounded.

On February 4, a car bomb in Puerto Asis, Putumayo department, killed 2 persons and wounded 10 other persons. On March 3, the FARC detonated a car bomb in the town square at Cachipay, Cundinamarca department; 3 civilians were killed and 19 were wounded. On March 30, the FARC detonated another bomb in front of the mayor's office in Cachipay, which killed 3 persons and wounded 20 others. On March 26, the FARC detonated another car bomb in the town square at Girardot, Cundinamarca department, killing 1 policeman and wounding 10 civilians. Many believed that the Girardot bombing was a FARC admonishment to local merchants who were late in making extortion payments. Other FARC car bombings in Cundinamarca department at Soacha (a southern neighborhood of Bogota) on February 24 and at Anapoima on January 16 caused property damage but did not result in any deaths.

During a March FARC artillery attack on the Medellin base of the army's Fourth Brigade, 2 civilians were killed and 18 injured when the FARC's gas cylinder-bombs exploded prematurely in a civilian neighborhood. A total of 45 homes and 2 civilian buildings were destroyed.

On July 29, approximately 400 members of the FARC guerrilla group attacked the town of Arboleda, Caldas department, killing 12 policemen and 4 civilians. The attack lasted for 2 days. Guerrillas detonated explosives in front of town buildings, including the police station and a church. Most of the village was damaged or destroyed.

On August 2, the FARC 14th front killed five hostages with shots to the head and left a sixth person for dead. The survivor, a farmer named Fernando Jimenez Hurtado, had been kidnaped in June in Caqueta department, south of the FARC demilitarized zone, and had been chained for 2 months to another hostage. He was forced to drag the victim's body almost 1 kilometer to the nearest police station. Jimenez Hurtado reported being held with 50 other kidnaped persons under poor conditions.

Antioquia police reported that, on November 18, the FARC killed 6 farmers who were former EPL guerrillas, burned 20 houses, and displaced 30 persons in a rural area of Frontino, west of Medellin. Unconfirmed reports indicated that another five persons may have disappeared.

From late September to early December, the FARC banned all road traffic in the southern department of Putumayo, following an offensive by paramilitary forces in the area of La Hormuga. The guerrillas' ban on road traffic, which was criticized by NGO's and local officials, led to severe shortages in food and medicine despite government efforts to fly in supplies and to secure key roads. The FARC also reportedly restricted the movement of ambulances.

According to the Federation of Colombian Municipalities, paramilitary and guerrilla attacks damaged or destroyed the installations of 64 municipal governments during the year, and paramilitary groups and guerrillas kidnaped 20 mayors and 18 mayoral candidates (see Sections 1.b. and 3).

The FARC committed numerous abuses against civilians in the despeje zone. The FARC was responsible for killings, alleged cases of forced disappearance, rape, arbitrary detention, infringement of the rights to free speech, freedom of religion (see Section 2.c.), and fair trial (see Section 1.e.), forced political indoctrination, and the forced recruitment of hundreds of children. According to press reports, the FARC has stated publicly that all persons between the ages of 13 and 60 in the despeje zone are liable for military service with the guerrillas; families fleeing the zone re-

ported that they were asked to surrender children to the FARC as of their 14th birthday.

Guerrillas, usually the ELN, destroyed 434 electrical pylons in the period from January 1999 to September 2000, causing massive damage to the country's power industry and increases in electricity rates for consumers. Guerrilla attacks on oil pipelines caused considerable environmental damage.

According to press reports in September, the ELN had held an internal trial of participants in the 1998 Machuca fireball incident in which over 80 persons were killed and 17 were injured as a result of an ELN pipeline bombing. According to the reports, the ELN claimed to have expelled guerrillas from its ranks for involvement in the crime.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of the press; and the Government generally respected this right in practice; however, journalists regularly practiced self-censorship to avoid retaliation and harassment by various groups. The privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without fear of reprisals. A ban on the publication of evidence pertaining to criminal investigations, based on the secrecy provisions of the Penal Code and an anticorruption statute, remained in effect. Journalists typically work in an atmosphere of threats and intimidation, primarily from paramilitary groups and guerrillas, which appeared to worsen during the year. Fearing for their safety, journalists often refrain from publishing or broadcasting stories counter to the interest of paramilitary groups, guerrillas, or narcotics traffickers.

In October 1999, the Organization of American States (OAS) Special Rapporteur for Freedom of Expression stated that the "press freedom situation in Colombia is a serious source of concern" and that, in addition to the killings of journalists, "Colombian journalists endure constant threats and intimidation."

The human rights unit of the Prosecutor General's office reported in November that it had 32 open cases involving murders, kidnappings, and threats against journalists. Twelve journalists were killed during the year, although not all of the killings could be attributed directly to the journalists' work.

On September 9, members of a paramilitary group murdered Carlos Jose Restrepo Rocha, the publisher of *TanGente* newspaper in Tolima, a municipal council candidate, and a former member of the now-inactive M-19 terrorist group. Ten men who identified themselves as members of a paramilitary group seized Restrepo during a community meeting in San Luis de Ibague, Tolima department, and Restrepo was found dead hours later, with paramilitary pamphlets placed on his body.

On November 15, unidentified assailants shot and killed local radio reporter Gustavo Rafael Ruiz Cantillo in the Pivijay municipality marketplace, Magdalena department. Many observers believe that he was killed by paramilitary forces, who reportedly have a strong presence in Pivijay; however, the FARC also are known to operate in the region. An investigation continued at year's end.

On November 30, unidentified assailants killed reporter Guillermo Leon Agudelo in his home in Florencia, Caqueta department. On December 13, two persons on a motorcycle shot and killed Alfredo Abad Lopez, director of the Voice of the Jungle radio station, a Caracol affiliate, as he left his home in Florencia, Caqueta department. The authorities formed a special investigative unit to establish whether the two murders are connected, and the Florencia mayor's office offered a \$10,000 reward for information leading to arrests in these cases.

In May 1999, the Prosecutor General's office created a new subdivision to handle investigations of crimes that targeted journalists. On May 3, investigations also produced arrest warrants against AUC leader Carlos Castano and three other persons who allegedly killed journalists Alberto Sanchez and Luis Alberto Rincon.

In July the Prosecutor General's Human Rights Unit indicted Rodolfo Nelson Rosado Hernandez (alias "El Pichi") and Jorge Eliecer Espinal Velasquez ("El Parce") in the September 1999 murder of newspaper editor Guzman Quintero Torres in Valledupar, Cesar department. The two have been in police custody since September 1999 and are thought to be members of a group of killers working for area paramilitary forces. Quintero's editorials had criticized state forces in the area, and he reportedly had been threatened before his death.

There was also progress in the investigation of murdered journalist Jaime Garzon (see Section 1.a.).

Guerrillas, primarily the ELN, were responsible for the kidnaping of 15 journalists during the year. Guerrillas abducted many of them to bear witness to crimes committed by paramilitary forces or to deliver messages to local authorities. Eleven journalists reported death threats during the year.

In January the FARC kidnaped journalist Guillermo "la Chiva" Cortes; in August security forces rescued him, along with six other hostages.

On May 25, Jineth Bedoya Lima, a reporter for the *El Espectador* newspaper, was kidnaped and raped over a period of 10 hours while on her way to interview a convicted paramilitary leader at the Modelo prison in Bogota. Two days prior to her kidnaping, *El Espectador* received threatening letters against her and other journalists. Carlos Castano, leader of the AUC paramilitary organization, denied that the AUC was involved in the kidnaping.

On December 16, the ELN reportedly kidnaped Caracol television journalist Winston Viracacha in Tumaco, Narino department. Viracacha had traveled with his cameraman and an assistant to meet members of the ELN's "Comuneros del Sur" front, who retained Viracacha but released his companions.

Thirteen journalists left the country during the year. In March Francisco "Pancho" Santos, editor of the family-run *El Tiempo*, the country's largest newspaper, and founder of the Pais Libre antikidnaping organization and the national "No More" antiviolence civic campaign, fled the country after announcing that he was the target of a FARC guerrilla group plot to kill him. Santos remained in exile at year's end. Also in March, television personality Fernando Gonzalez Pacheco fled the country after receiving threats from the FARC. In June Ignacio Gomez Gomez, a journalist for *El Espectador*, fled the country after receiving threats against his life.

The InterAmerican Press Society opened a rapid action unit office in Bogota to help the Prosecutor General's office investigate crimes against journalists. On August 18, President Pastrana issued a decree establishing a program for the protection of journalists. In October the Minister of Interior announced the inauguration of the program, which is to provide armor for cars, escorts, and transportation. The Government consulted with journalism organizations to identify journalists at special risk but has not had the resources to provide protection. The Ministry of the Interior supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

On December 20, a specialized court judge in Neiva, Huila department, absolved contractor Fernando Bermudez Ardila and two other defendants accused of the April 1998 murder of journalist Nelson Carvajal Carvajal; the judge cited weak evidence in the case. Bermudez had been accused of hiring the two other men to kill Carvajal, because Carvajal would not agree to stop negative reporting about a development project built by Bermudez's firm. Prosecutors appealed the decision, and the Supreme Court is expected to rule on the case.

Media ownership remains highly concentrated. Wealthy families or groups associated with one of the two dominant political parties have consolidated their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and reduced staff. Although the press remained generally free, economic problems and the concentration of media ownership limited the media's resources, causing the media to rely heavily on a smaller pool of advertisers, including the Government, which the media often chose not to criticize.

The National Television Commission continued to oversee television programming throughout the year.

The FARC restricted the movement of journalists in the despeje through blockades and random identity checks and on at least three occasions stopped *El Tiempo* trucks and burned all of the newspapers that they carried.

The Government generally respected academic freedom, and there was a wide spectrum of political activity throughout the country's universities. However, paramilitary groups and guerrillas maintain a presence on many university campuses, aimed at generating political support for their respective campaigns. They use both violent and nonviolent means towards political ends. Both paramilitary groups and guerrillas also regularly targeted public school teachers at the elementary and secondary levels for politically motivated killings.

In August the National University was closed, and its premises were searched after a policeman was killed during a protest. Students held a referendum against violent groups operating on the university campus.

In April schools in Chalan and Ovejas, in Sucre department, were suspended due to death threats against 50 teachers. More than 3,000 students were affected. Threats also were made against teachers in Coloso, Morroa, Toluviejo, San Onofre, Los Palmitos, and San Antonio de Palmito in Sucre department. All of the major guerrilla organizations and the paramilitary groups maintain a presence in the region.

On October 5, Universidad del Atlantico professors Luis Meza Almanza Alfredo Martin Castro Hayder were killed in Barranquilla on October 5 and August 26, respectively. Both were known for leftist views and had been under consideration for rector positions at the University. Castro was reportedly on a death threat list.

Investigations continued into four 1999 attacks against prominent academics. Jesus Antonio Bejarano, a former government peace commissioner; Doctor Dario Betancur, head of the social sciences faculty of Bogota's Universidad Pedagogica; and Doctor Hernando Henao, an anthropologist who published on the subject of displaced persons, all were killed in 1999. In December 1999, Professor Eduardo Pizarro Leongomez, director of the political studies and international affairs institute at the National University, was shot twice by unknown attackers; he survived but fled the country. As a result of these incidents, academic leaders have chosen to assume a lower profile; many have taken up residence outside the country.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government respects this right in practice. The authorities normally do not interfere with public meetings and demonstrations and usually grant the required permission except when they determine that there is imminent danger to public order.

There were large demonstrations on several occasions by citizens throughout the country; the authorities generally did not interfere.

In February police sought to remove an U'wa road block by using tear gas to disperse the crowd; the U'wa claimed that four children were killed in the ensuing panic (see Sections 1.a. and 5). Press reports indicated that only one body was recovered. In April numerous indigenous groups blocked routes, freeways, and city streets throughout the country to demand respect for their life and territory and to support the Embera-Katio and U'wa tribes in their disputes against the Urrea hydroelectric project and Occidental Petroleum respectively (see Section 5). On September 10, thousands of persons across the country, including business leaders, union activists, and ordinary citizens, marched in support of peace and respect for human rights.

The Constitution provides for freedom of association, and the Government respects this right in practice. Any legal organization is free to associate with international groups in its field. Membership in proscribed organizations, such as the FARC, the ELN, the EPL, and the AUC, is a crime.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Roman Catholic religious instruction is no longer mandatory in public schools, and a 1994 Constitutional Court decision declared unconstitutional any official government reference to religious characterizations of the country. Although the Catholic Church was separated from the State by the 1991 Constitution, it retains a de facto privileged status. The law on the freedom of religion provides a mechanism for religions to obtain the status of recognized legal entities. Accession to the 1997 public law agreement between the State and non-Roman Catholic religious entities currently is required for any religion that wishes to minister to its adherents via any public institution. Local governments may exempt from taxes religiously affiliated organizations such as schools and libraries; however, in practice, local governments often exempt only organizations that are affiliated with the Roman Catholic Church. The Government permits proselytizing among the indigenous population, provided that it is welcome and does not induce members of indigenous communities to adopt changes that endanger their survival on traditional lands.

Paramilitary groups sometimes target representatives and members of the Roman Catholic Church and evangelical Christian churches, generally for political reasons.

The FARC has placed religious restrictions on persons within the despeje zone. The FARC also levied "war taxes" on Roman Catholic and evangelical churches and schools in the despeje and elsewhere.

The FARC and ELN guerrilla movements regularly target representatives and members of the Roman Catholic Church and evangelical Christian churches, generally for political reasons, and committed acts of murder, kidnaping, and extortion, as well as inhibited the right to free religious expression. For example, according to one evangelical movement, guerrillas regularly attacked rural evangelical Christians and their churches.

According to the Christian Union Movement, the FARC murdered 46 of the movement's affiliated preachers between January 1999 and June 2000. As of June, the FARC had forced the closure of over 300 evangelical churches in Meta, Guajira, Tolima, Vaupes, Guainia, Guaviare, Vichada, Casanare, and Arauca departments. Additionally, the movement claimed that the FARC extorted and, in many cases, forced the closure of rural evangelical schools. Faced with threats by guerrillas or paramilitary forces, many evangelical preachers were forced to refrain from publicly addressing the country's internal conflict.

Guerrillas were suspected of the April massacre of 2 evangelical preachers and 12 church members at Hato Nuevo, Carmen de Bolivar, Bolivar department.

On March 27, unidentified perpetrators killed Roman Catholic priest Hugo Duque Hernandez at Supia, Caldas department.

There were no new developments in the November 1999 killings of Roman Catholic priest Jorge Luis Maza and Spanish aid worker Inigu Egiluz in Choco department; security forces had arrested nine members of a paramilitary group in conjunction with the crime.

The human rights unit of the Prosecutor General's Office reported in November that it had 34 open cases of killings of members of evangelical groups.

The Bishops' Conference of the Roman Catholic Church reported that paramilitary forces, the ELN, and the FARC sometimes threatened rural priests with death for speaking out against them. It also reported that Roman Catholic churches in Huila, Tolima, Cauca, and Antioquia departments were destroyed during guerrilla attacks on towns and police stations.

On April 11, at least three Mormon temples in Cali were bombed. No one was injured in the attacks, which damaged buildings. No one claimed responsibility for the attacks.

Jewish community leaders estimated that as many as 20 percent of the country's Jewish community had fled the country as of July 1999. Among the principal causes was a string of kidnappings, assaults, and murders affecting Jewish business leaders.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respects this right in practice, with some exceptions. Outsiders who wish to enter Indian tribes' reserves must be invited. In areas where counterinsurgency operations were underway, police or military officials occasionally required civilians to obtain safe-conduct passes; paramilitary forces and guerrillas often used similar means to restrict travel in areas under their control. At times the Government implemented curfews. Military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, and there was a very large population of internally displaced persons. According to CODHES, approximately 317,000 displacements of persons occurred during the year; the vast majority of displaced persons are peasants who have been displaced to cities (see Section 1.g.).

Throughout the year, frequent road blockades erected by paramilitary groups, the FARC, ELN, and peasant farmers inhibited transportation, communication, and commerce throughout the country. Social organizations also resorted to road blockages, some of them prolonged, to protest government actions or policies. Almost every major artery in the country was closed at some point during the year. From late September to early December, the FARC banned all road traffic in the southern state of Putumayo, following an offensive by paramilitary forces in the area of La Hormiga (see Section 1.g.).

Press reports indicate that more than 300,000 citizens emigrated during the last 2 years, due principally to the deteriorating security situation and economic recession.

The Constitution provides for the right to asylum, under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has had a tradition of providing asylum since the 1920's. At year's end, 239 refugees had legal asylum status, and 12 applications for asylum were pending.

The Government cooperates with the offices of the UNHCR and other humanitarian organizations in assisting refugees and internally displaced persons. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of the applicant's suffering. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government, and citizens exercise this right in regularly scheduled elections by secret ballot. In 1998 voters elected Conservative Party candidate Andres Pastrana President in elections that were free, fair, and transparent, despite some threats to the electoral process by paramilitary groups, narcotics traffickers, and guerrillas. The Liberal Party controls the legislature.

Presidential elections are held every 4 years, with the incumbent barred for life from reelection. The Liberal and Conservative parties long have dominated the for-

mal political process with one or the other winning the presidency. Public employees are not permitted to participate in partisan campaigns. Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election lose the right to present candidates and may not receive funds from the Government. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board. Voting is voluntary and universal for citizens age 18 and older, except for active-duty members of the police and armed forces, who may not vote.

Prior to local elections in October, both paramilitary and guerrilla organizations sought to dissuade some potential candidates from running for office or restrict their ability to campaign. The Colombian Federation of Municipalities reported to the press that armed groups threatened candidates in more than half of the country's 1,085 municipalities. By year's end, the Federation reported that 19 mayoral candidates were killed, 20 were kidnaped, 12 reported threats, and as many as 53 candidates for mayoral and municipal council posts withdrew their candidacies. For example, on September 23, guerrillas kidnaped the mayor of Samaniego, a Liberal Party candidate for that office, and six other mayoral candidates from this southern town in Narino. On September 9, members of a paramilitary group forced Carlos Restrepo, a leftist activist and publisher who was planning to run for a local office, from a community meeting; his body later was found outside San Luis. However, the October 29 elections were generally peaceful.

In April the FARC announced the formation of a political party—the Bolivarian Movement for a New Colombia—before a gathering of thousands of persons. FARC leader Manuel Marulanda announced that the party would operate secretly.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process; however, both are underrepresented in official and party positions. In March a quota law to increase the number of women in high-level public positions went into effect. The quota law requires that a minimum goal of 30 percent of nominated positions, including seats on the high courts and ministerial positions, be allotted to women. The quota law does not apply to publicly elected positions, such as seats in Congress. Before the end of each year, the Government must report to Congress the percentage of women in high-level governmental positions. Voters elected 14 women to the 102-seat Senate and 19 women to the 161-seat House of Representatives in March 1998. At year's end, there were 4 women in the 16-member cabinet—they serve as the Ministers of Health, Culture, Communications, and Foreign Trade. There were no women among the 23 Supreme Court justices, 1 woman among 9 Constitutional Court magistrates, and 3 women out of 13 magistrates of the Superior Judicial Council.

Indigenous people are underrepresented in government and politics. Two Senate seats are reserved for indigenous representatives. In October voters in Cauca elected Floro Tunubala, the country's first indigenous governor. Blacks also are underrepresented in government and politics. In 1996 the Constitutional Court declared unconstitutional a 1993 law that set aside two house seats for citizens of African heritage, although the ruling nonetheless allowed the incumbents to complete their terms in office. There is one black senator, but there are no black members of the Chamber of Representatives.

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

A large and varied nongovernmental human rights community is active, and provides a wide range of views. Among the many groups are: The Colombian Catholic Bishops Conference; the Colombian Commission of Jurists; the Intercongregational Commission for Justice and Peace; the Permanent Committee for the Defense of Human Rights; the Center for Investigations and Popular Research; the Advisory Committee for Human Rights and Displacements; the Latin American Institute for Alternative Legal Services; the Committee in Solidarity with Political Prisoners (dedicated to defending accused guerrillas); the Association of Families of Detained and Disappeared Persons; the Reinsertion Foundation (focused on demobilized guerrillas); the Pais Libre Foundation (focused on the rights of kidnap victims); and the Vida Foundation (focused on the rights of victims of guerrilla violence). Other international humanitarian and human rights organizations in the country that were active include the ICRC (with 16 offices across the country) and Peace Brigades International.

Although the Government generally did not interfere directly with the work of human rights NGO's, many prominent human rights monitors worked under constant fear for their physical safety. There were unconfirmed reports that security forces harassed or threatened human rights groups. In August the Prosecutor General's office opened an investigation against retired Brigadier Generals Millan and

Del Rio for bribing witnesses to testify falsely against a leading NGO organizer and a labor leader. Human rights groups were subjected to surveillance, harassing phone calls, graffiti campaigns, and threats by paramilitary, guerrilla, and other unidentified groups. At least four human rights activists had been killed as of October; there were three forced disappearances of human rights activists.

In October Angel Quintero and Claudia Patricia Monsalve, members of ASFADDES (an association for relatives of the disappeared) were kidnaped in Medellin by persons claiming political motives. There has been no news of the victims since October, and no arrests have been made. The authorities continued their investigation at year's end.

In August the Government launched an effort to improve its dialog with NGO's on human rights, the peace process, the Government's comprehensive strategy known as "Plan Colombia," and other issues. In October the Government jointly hosted with an NGO umbrella group an international gathering on these issues which included the participation of the ELN.

NGO's investigated and reported on human rights abuses committed by government forces, various paramilitary groups, and the guerrillas. Many NGO's expressed serious concern over the growing paramilitary and guerrilla violence and the Government's apparent inability to stop either group. In particular, a number of NGO's, as well as governmental human rights officials, were alarmed by the rapid growth of popular support for paramilitary groups, and their increasing political and military power.

The human rights community remained under intense pressure during the year. Human rights monitors were subjected to a systematic campaign of intimidation, harassment, and violence. According to the Colombian Commission of Jurists, five human rights advocates were killed during the year; three human rights workers disappeared. A total of 49 human rights workers have been killed or have disappeared in the past 5 years. On numerous occasions during the year, paramilitary groups in several municipalities circulated lists of the names of persons they considered "military targets," which included the names of local human rights activists, labor organizers, and politicians.

In addition, approximately 35 human rights workers left the country, either temporarily or permanently, for their own safety. For example, in July human rights activists Ivan Cepeda and his wife Claudia Giron left the country after receiving threats against their lives.

The Government, through the Ministry of the Interior and the DAS, allocated approximately \$4.3 million (8 billion pesos) to its 2-year-old program to protect human rights advocates and labor activists associated with 88 different human rights NGO's and unions. The funds were designated for security measures for individuals as well as for the headquarters of the NGO's, an emergency radio network, and funding for travel abroad for individuals who faced a particular threat; however, human rights groups stated that the protection programs are inadequate to address the crisis, and called for increased efforts to combat impunity.

The new forced disappearance law provides for a maximum penalty of 60 years for cases involving human rights activists (see Section 1.b.).

Armed groups targeted regional ombudsmen. Fourteen regional ombudsmen have been killed since 1998. In July Jose Manuel Bello, the municipal human rights ombudsman in Vigia del Fuerte, Atrato, Antioquia department, reportedly was kidnaped, killed, and dragged into the Atrato River by members of the FARC guerrilla group. In July unidentified, armed men killed Yemil Fernando Hurtado Castano, the human rights ombudsman in Narino municipality, southeastern Antioquia department. The regional ombudsman of Lourdes municipality, Norte de Santander department, was kidnaped and held for 3 days by paramilitary forces. Garcia and two other municipal human rights officials were forced to leave Norte de Santander department due to continued paramilitary threats.

The criminal organization La Terraza publicly admitted to killing at least five human rights advocates and stated that the killings had been ordered by Carlos Castano (see Section 1.a.).

There was no reported progress in the investigation of the September 1999 killing of the Human Rights Ombudsman's representative for San Juan Nepomuceno, Carlos Arturo Pareja, and his assistant.

A preliminary investigation by the Prosecutor's national human rights unit indicated common criminals were responsible for the January 1999 killings of Everardo de Jesus Puerta and Julio Ernesto Gonzalez, both members of the Committee for Solidarity with Political Prisoners (CSPP). The case was referred to the Medellin prosecutor's office for further investigation.

Prosecutors continued to investigate the November 1999 AUC killings of southern Bolivar department peasant leaders Edgar Quiroga and Gildardo Fuentes.

On November 22, a Bogota judge convicted two members of a paramilitary group for the 1997 murders of two CINEP workers and one other person. Arrest warrants remained outstanding for Carlos Castano and four other members of paramilitary groups (see Section 1.a.).

Suspected paramilitary leader Libardo Humberto Prada was linked by NGO's to the August 15 murder of peace activist and former mayor Luis Fernando Rincon Lopez in Aguachica, Cesar department. The case remained under investigation at year's end. In April 1999, the human rights unit of the Prosecutor General's office formally indicted Prada and paramilitary Cielo Lobo Ascano in the August 1998 killing in Valledupar of local Redepaz coordinator Amparo Leonor Jiminez.

In February a lower civilian court convicted four Colombian human rights activists arrested by the army in 1997 for allegedly funneling international human rights assistance intended for displaced persons to the ELN guerrilla movement. The court sentenced them each to 5 years' imprisonment.

The Ministry of Defense reported that in the past 5 years, 97,894 security force members received human rights training during the year, including 1,994 human rights trainers. Such training is provided by the ICRC, the Colombian Red Cross, the Roman Catholic Church, elements of the Government and security forces, and foreign governments. Many observers credited these programs with having done much to foster a climate of increased respect for human rights and international humanitarian law within the military forces in recent years.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights, headed by Vice President Gustavo Bell. Human rights expert Reinaldo Botero was named Director of the presidential program for human rights and international humanitarian law in September. The executive branch's efforts on human rights are supported by the Ministry of Interior, the human rights office of the Ministry of Defense, and dependent offices for each of the public security forces. The office of the national Human Rights Ombudsman, its regional representatives and corps of public defenders, the Attorney General's office and its delegate for human rights and regional representatives, and the Prosecutor General's office and its human rights unit are all independent institutions, not subject to executive branch direction.

The House of Representatives elects the Public Ministry's National Ombudsman for Human Rights for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. The Ombudsman provides public defense attorneys and a channel for complaints of human rights violations (see Section 1.e.). However, the Ombudsman lacks sufficient funding and staff. In August the House of Representatives named former Constitutional Court Judge Eduardo Cifuentes Munoz as Human Rights Ombudsman.

The Human Rights Ombudsman's office processed 13,951 complaints in 1999 (the latest year for which figures were available); 8,562 cases (61 percent) were against government entities. Of the 7,272 cases concluded in 1999, the Ombudsman's office obtained favorable or partially favorable conclusions in 2,867, or forty percent. Another 1,436 were referred to the competent authority. The office also provided 40,656 free legal consultations through its corps of more than 1,000 public defenders, many of whom work only part-time.

Early in the year, the Government established a high-level commission to coordinate policy on human rights and international humanitarian law, which is headed by Vice President Gustavo Bell.

In August 1999, the Vice President enunciated the Government's human rights policy; however, some aspects of implementation have been slow to materialize. The Government's national human rights plan called for the respect, promotion, and assurance of human rights. It promised increased government attention to the consequences of human rights abuses and called on all armed factions to respect international humanitarian law. The plan asserted that security forces would combat both guerrilla and paramilitary forces. One of the plan's most important provisions permitted the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient." In September President Pastrana signed 12 decrees to reform and strengthen the military; one decree provides for the separation from service of all uniformed members of the military regardless of their time in service, at the discretion of the top military commanders (see Section 1.e.).

The U.N. High Commissioner for Human Rights and the UNHCR have offices in Bogota. In 1997 the UNHCHR opened a field office in Bogota to observe human rights practices and advise the Government; its mandate was extended through April 2002. The office is tasked with monitoring and analyzing the human rights situation throughout the country and with the provision of assistance to the Govern-

ment, civil society, and NGO's in the field of human rights protection. It submitted reports to the Government and to the U.N. In March the UNHCR report, which covered 1999, noted that "the continued existence of direct links between some members of the security forces and paramilitary groups, revealed by disciplinary and judicial investigations, is a cause of great concern." The report also noted that in 1999 "in some regions of the country, these links were strengthened and the authorities responsible for penalizing them failed to take decisive action." In April UNHCHR Mary Robinson noted "reports indicating that members of the military forces participate directly in organizing new paramilitary groups and in disseminating threats. The President, other government officials, the UNHCHR, and various NGO's noted increased popular support for paramilitary groups and a polarization of political opinion with concern.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 are not enforced. The killing of homosexuals as part of the practice of social cleansing continued.

*Women.*—Rape and other acts of violence against women are pervasive in society, and like other crimes, seldom are prosecuted successfully. According to the Ombudsman's 1999–2000 report, intrafamilial violence, sexual assault, and murder of women were increasing problems. The governmental Institute for Family Welfare and the Presidential Adviser's Office for Youth, Women, and Family Affairs continued to report high-levels of spouse and partner abuse throughout the country. In 1999 the Institute for Forensic Medicine reported 62,123 cases of domestic violence, of which 41,528 were conjugal violence, 9,896 were child abuse, and 10,699 were cases of abuse by other family members. The ICBF conducted programs and provided refuge and counseling for victims of spousal abuse; however, the level and amount of these services were dwarfed by the magnitude of the problem. For example, ICBF's 530 family ombudsmen handle approximately 1,160 cases per year.

The Institute estimated that 95 percent of all abuse cases are never reported to the authorities and reported 13,703 cases of probable rape during the year.

The 1996 Law on Family Violence criminalizes violent acts committed within families, including spousal rape. The law also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial authority to remove the abuser from the household. It allows a judge to oblige an abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders issued by the courts. A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The law also repealed an old law that fully exonerated a rapist if he subsequently offered to marry the victim and she accepted. However, there was little evidence that this legislation was enforced systematically. The reforms to the Penal Code approved in June reduced the maximum sentence for violent sexual assault from 20 to 15 years; the minimum sentence is 8 years. The National Institute for Forensic Medicine reported 19,859 cases of spousal abuse during the first half of 1999. The overwhelming majority of victims were women. First Lady Nohra Pullana de Pastrana is on the board of directors of the ICBF and works with the "Make Peace" program, which provides support to women and children who were victims of domestic violence.

Sexual harassment is a problem.

Women also faced an increased threat of torture and sexual assault due to the internal conflict (see Section 1.g.).

The forced disappearance law provides for a maximum penalty of 60 years for cases involving pregnant women (see Section 1.b.).

Trafficking in women is a problem (see Section 6.f.).

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to ensure "adequate and effective participation by women at decisionmaking levels of public administration." Even prior to implementation of the 1991 Constitution, the law had provided women with extensive civil rights. However, despite these constitutional provisions, discrimination against women persists. A study by the University of Rosario released during the year concluded that women faced hiring discrimination and that women's salaries were generally incompatible with their education and experience. The salary gap between men and women widened in the last decade, reaching a high point in 1999 as the

country's economy declined. The study also noted that women were affected disproportionately by unemployment. Government unemployment statistics for the year indicated that the unemployment rate for men was 16.9 percent, while the rate for women was 24.5 percent. According to the March report of the U.N. High Commissioner for Human Rights, women earn 28 percent less than men. The National Statistics Institute reported that a higher percentage of women were employed in minimum wage jobs. According to U.N. statistics, women's earnings for formal sector, nonagricultural work correspond to approximately 85 percent of men's earnings for comparable work, and women must demonstrate higher qualifications than men when applying for jobs. Moreover, women constitute a disproportionately high percentage of the subsistence labor work force, especially in rural areas. Female rural workers are affected most by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. In September 1997, the Constitutional Court ruled that pregnant women and mothers of newborn children under 3 months of age could not be fired from their jobs without "just cause." The court ruled that bearing children was not just cause.

On October 25, the Constitutional Court struck down a law that had prohibited pregnant women who are divorced or separated from their partners from remarrying before giving birth. The law also had imposed a 270-day "waiting period" for women who wanted to remarry.

*Children.*—The Constitution formally provides for free public education, which is compulsory between the ages of 6 and 15. An estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws, inadequate classroom space, and economic pressures to provide income for the family. The Government provides for the cost of primary education, but many families face additional expenses related to education, such as matriculation fees, books, school items and transportation costs (which are significant in rural areas where children may live far from school). These costs can be prohibitive, especially for the rural poor.

Despite significant constitutional and legislative commitments for the protection of children's rights, these were implemented only to a minimal degree. The Constitution imposes the obligation on family, society, and the State to assist and protect children, to foster their development, and to assure the full exercise of these rights. The Children's Code sets forth many of these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens with regard to the code as well as the 1996 and 1997 laws on family violence, which had been drafted particularly to increase legal protection for women and children.

Abuse of children is a problem. The National Institute for Forensic Medicine reported 9,896 cases of child abuse during the year; there were 9,713 reported cases in 1999. According to the March report of the U.N. Commission on Human Rights, sexual abuse is prevalent, particularly of children between the ages of 5 and 14 years of age. In 70 to 80 percent of cases, children know their abusers.

An estimated 25,000 boys and girls under age 18 work in the sex trade. In 1996 legislators passed a law prohibiting sex with minors or the employment of minors for prostitution, and they amended that law in 1997 to provide that conviction for nonviolent sexual abuse of a child under age 14 carries a prison sentence of 4 to 10 years. Conviction for rape of anyone under the age of 12 carries a mandatory sentence of 20 to 40 years in prison. Enforcement of such laws is lax. The ICBF oversees all government child protection and welfare programs and funds non-governmental and church programs for children.

Trafficking in girls is a problem (see Section 6.f.).

Child labor is a significant problem (see Section 6.d.).

In conflict zones, children often were caught in the crossfire between the public security forces, paramilitary groups, and guerrilla organizations. For example, on August 15, six children were killed and several others injured by members of the army's Fourth Brigade who mistook the children for a guerrilla unit (see Section 1.g.). Ministry of Defense figures indicated that approximately 200 children were killed due to the conflict during the year. At mid-year, UNICEF reported that 460 children had been killed over the past 4 years by various armed groups and that 789 had been kidnaped. Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. According to UNICEF, over 1 million children have been displaced from their homes over the past decade. The Human Rights Ombudsman's office estimated that only 15 percent of displaced children attend school. In

July 1999, the Government announced that no one under the age of 18 could enter military service, even with the consent of a parent; previously, individuals over 16 years of age but below age 18 could volunteer to join the military with parental permission but were barred from serving in combat.

Paramilitary groups sometimes impressed children into their ranks, and the use of child soldiers by guerrillas was common. According to press reports, in August members of the FARC killed a school rector in Meta department for criticizing the recruitment of his students. The Government estimates that approximately 6,000 children are engaged as combatants by both paramilitary groups and guerrillas. In May 1999, the FARC promised visiting Special Representative of the U.N. Secretary General on Children in Armed Conflict Olara Otunnu that it would stop forcing children into its ranks; however, it continued the practice. The Roman Catholic Church reported that the FARC lured or forced hundreds of children from the despeje zone into its ranks. It engaged in similar practices in other areas under its control. For example, according to press reports, in June the FARC recruited at least 37 youths, including minors, in the municipality of Puerto Rico in southern Meta department. According to one NGO, in Putumayo the FARC instigated compulsory service of males between the ages of 13 and 15 and was recruiting in high schools. Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, it also regularly impressed children into its ranks. Some 57 child guerrillas were captured or deserted during the year, and 27 children were killed during FARC-military clashes.

According to press reports, families from the demilitarized zone, as well as from Arauca, Valle del Cauca, and Antioquia departments have fled their homes because guerrilla groups have tried to recruit their children forcibly. On May 4, a woman from Norte de Santander department, with the help of the Colombian military, delivered her 12-year-old son to the ICBF to protect him from the FARC, which was trying to recruit him forcibly.

Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.). Pais Libre reports that the number of children kidnaped annually has increased in recent years, from 131 in 1998 to 206 in 1999, and as of November 12, 265 children had been kidnaped in 2000. According to one press report, more than 200 children were kidnaped during the year. For example, the FARC kidnaped 9-year-old Clara Oliva Pantoja on March 22 and 3-year-old Andres Felipe Navas on April 7 and held both in the despeje zone. Clara Olivia Pantoja was released in December (see Section 1.b.). In April three armed men kidnaped 9-year-old Dagberto Ospina Ospina from his school bus in southern Cali. No group has been identified or claimed responsibility.

*People with Disabilities.*—The Constitution enumerates the fundamental social, economic, and cultural rights of the physically disabled; however, serious practical impediments exist that prevent the full participation of disabled persons in society. There is no legislation that specifically mandates access for the disabled. According to the Constitutional Court, physically disabled individuals must have access to, or if they so request, receive assistance at, voting stations. The Court also has ruled that the social security fund for public employees cannot refuse to provide services for the disabled children of its members, regardless of the cost involved.

*Indigenous People.*—There are approximately 80 distinct ethnic groups among the country's more than 800,000 indigenous inhabitants. These groups are concentrated in the Andes mountains, Pacific Coast lowlands, the Guajira peninsula, and Amazonas department. According to the National Organization of Colombia's Indigenous (ONIC), 93 percent of indigenous people live in rural areas; 25 percent are on reservations, and approximately 115,000 indigenous people are without land.

The Constitution gives special recognition to the fundamental rights of indigenous people. The Ministry of Interior, through the office of indigenous affairs, is responsible for protecting the territorial, cultural, and self-determination rights of Indians. Ministry representatives are located in all regions of the country with indigenous populations and work with other governmental human rights organizations, as well as with NGO human rights groups and civil rights organizations, to promote Indian interests and investigate violations of indigenous rights. Nonetheless, members of indigenous groups suffer discrimination in the sense that they traditionally have been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life. The March report of the U.N. Commission on Human Rights noted that an estimated 80 percent of the indigenous population live in conditions of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. In addition, indigenous communities suffer disproportionately from the in-

ternal armed conflict (see Section 1.g.). Members of indigenous communities often flee together in mass displacements, relocating to another indigenous community.

According to the National Agrarian Reform Institute (INCORA), 68,245 indigenous families live on designated Indian reserves. Indigenous groups' rights to their ancestral lands are by law permanent. INCORA reports that approximately 80 percent of these lands have been demarcated. However, armed groups often violently contested indigenous land ownership. According to ONIC, roughly 95 percent of the country's resources are found on indigenous reservations and claimed territories. Traditional Indian authority boards operate some 519 reserves; the boards handle national or local funds and are subject to fiscal oversight by the national Comptroller General. These boards administer their territories as municipal entities, with officials elected or otherwise chosen according to Indian tradition.

Indigenous communities are free 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.

INCORA estimated that some 200 indigenous communities had no legal title to land that they claimed as their own. INCORA reported that at mid-year some 488 requests by indigenous communities to establish new reserves remained outstanding. According to INCORA, more than 75 million acres have been recognized legally as Indian lands. It is buying back much of this land, which has been settled by mestizo peasants, and returning it to indigenous groups.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws. However, some observers asserted that these special jurisdictions were subject to manipulation, and that punishments rendered by such community courts were often much more lenient than those imposed by regular civilian courts.

Members of indigenous communities continued to be victims of all sides in the internal conflict, and a number of them were killed. The national Human Rights Ombudsman stated in its 1999–2000 annual report that among the indigenous communities most affected by extrajudicial killings, threats, and regional combat were the Corebaju in Cauqueta, the Punave in Guaviare, the Embera-Katio of Alto Sinu, the Embera-dobida of Choco, the Paez in Cauca, the Emaer-katio in Antioquia, the Guayabero on the Guaviare-Meta border, the Tule in Choco, and the U'wa in Boyaca and Casanare. The Human Rights Ombudsman's office reported 33 killings in indigenous communities in 1999; 22 of these victims were community leaders.

According to press reports, in June members of a paramilitary organization killed Joselito Bailarin, EmberaKatio governor of the community of Canaverales in Murri de Frontino in Antioquia department. On December 25, Embera leader Armando Achito reportedly was killed by paramilitary forces in Jurado municipality, Choco department.

There were no new developments in the 1996 murder of Indians Dagoberto Santero Bacilio, Carlos Arturo Solano Bernal, and Sergio (Manue) in San Antonio de Palmito in Sucre department, allegedly by paramilitary groups.

According to press reports, in early May, the FARC announced that it would execute seven Embera-Katio indigenous leaders in the town square at Frontino in Murri, Antioquia department, as retribution for the May 26 deaths of two indigenous brothers at the hands of paramilitary forces. The FARC believed that the indigenous leaders had laid a trap for the brothers by identifying them as guerrilla collaborators. The FARC stated that the indigenous leaders took too long (8 days) to report the crime. The Indigenous Organization of Antioquia (OIA) attributed the delay to difficulties in communicating from a rural zone to Medellin. The OIA called for a humanitarian commission to protect the leaders; however, on May 24, the FARC killed one of the leaders, a 30-year-old teacher named Hernando de Jesus Bailarin.

Paramilitary and guerrilla groups have been known to force indigenous people, including children, into their ranks. Some guerrilla groups reportedly favored indigenous people as guides and communicators, due to their knowledge of the geography of their historical lands and knowledge of generally unfamiliar languages.

On May 10, approximately 3,000 Kankuama tribe members from the Sierra Nevada of Santa Marta region in Magdalena department were pressured to leave their community by the AUC paramilitary organization. The AUC was fighting the FARC, ELN, and EPL guerrilla organizations in the region. On March 2, indigenous leader Jairo Bedoya Hoyos disappeared. The OIA held the AUC responsible. In an open letter, the AUC stated that it did not have Bedoya in its custody.

U'wa protests against initial drilling by Occidental Petroleum in an area near but not on their reserve continued. The U'wa filed several court challenges to drilling, and succeeded in winning brief delays before appeal courts ruled in favor of the Government's arrangement with Occidental. U'wa repeatedly sought to block road ac-

cess to the drilling site; in one instance in February, police sought to remove an U'wa road block by using tear gas to disperse the crowd; in an ensuing panic the U'wa claimed that four children were killed (see Sections 1.a. and 2.b.). Press reports indicated that only one body was recovered. Indigenous Senator Jesus Pinacue announced a hunger strike to pressure Occidental Petroleum to leave U'wa land. Indigenous Senator Francisco Rojas Birri and Representatives Leonardo Caicedo and Jhonny Aparicio supported the hunger strike. A 1997 OAS joint study with a university recommended the immediate and unconditional suspension of oil exploration or exploitation activities; clarification of the status of U'wa territories and protected reserves; and the development of a formal process of consultation under the auspices of the Government. The U'wa also had threatened to commit collective suicide if their wishes were not respected. In August 1999, the Government increased the U'wa reserve, from 100,000 acres to 1.25 million acres. The area has estimated oil reserves of up to 1 billion barrels. In August a technical working group including the Ministries of Interior and Environment, as well as an advisor to the U'wa, reported that the Government and Occidental Petroleum are complying with all applicable regulations. The U'wa broke off talks in September, in response to a ruling by the Government's agrarian reform agency authorizing the state oil company to purchase lands to create a buffer zone around the drilling area. Talks remained suspended at the end of the year.

Beginning in early January, 167 indigenous members of the EmberaKatio tribe occupied the grounds of the Ministry of the Environment in Bogota for 4 months to protest the flooding of their lands by the Urra hydroelectric project. In 1998 the Constitutional Court ruled that the human rights of the Embera had been violated by Urra because it had not consulted the Embera on the project.

*Religious Minorities.*—There is little religious discrimination. The Roman Catholic Church and some evangelical churches reported that some indigenous leaders were intolerant of nontraditional forms of worship.

Three Mormon temples were bombed in April, and members of the Jewish community were victims of abuse (see Section 2.c.).

*National/Racial/Ethnic Minorities.*—According to the Ministry of the Interior, citizens of African heritage live primarily in the Pacific departments of Choco (370,000), Valle del Cauca (1,720,257), Cauca (462,638), and Narino (261,180), as well as along the Caribbean coast. Although estimates vary widely, blacks represent approximately 10 percent of the total population.

Blacks are entitled to all constitutional rights and protections; however, they traditionally have suffered from discrimination. Blacks are underrepresented in the executive branch, judicial branch, and civil service positions, and in military hierarchies. Despite the passage of the African-Colombian law in 1993, little concrete progress was made in expanding public services and private investment in Choco department or other predominantly black regions. The same law also authorized black communities to receive collective titles to some Pacific coast lands. However, black leaders complained that the Government was slow to issue titles, and that their access to such lands often was inhibited by the presence of armed groups or individuals. Unemployment among African-Colombians ran as high as 76 percent in some communities. The March report of the U.N. Commission on Human Rights noted that an estimated 80 percent of African-Colombians live in conditions of extreme poverty, that 74 percent receive wages below the legal minimum, and that their municipalities have the highest rates of poverty. Choco remains the department with the lowest per capita level of social investment and is last in terms of education, health, and infrastructure. It also has been the scene of some of the country's most enduring political violence, as paramilitary forces and guerrillas struggled for control of the Uraba region.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes the rights of workers to organize unions and to strike, except for members of the armed forces, police, and those "essential public services" as defined by law. However, legislation that prohibits all public employees from striking is still in effect, although it often is overlooked. In practice violence towards trade unionists and antiunion discrimination are obstacles to joining and engaging in trade union activities. Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Union leaders contend that perpetrators of violence against workers, particularly members of paramilitary groups, operate with virtual impunity.

The 1948 Labor Code (which has been amended repeatedly) provides for automatic recognition of unions that obtain at least 25 signatures from potential members and comply with a simple registration process at the Labor Ministry; however,

the International Labor Organization (ILO) has received reports that this process was slow and sometimes took years. The law penalizes interference with freedom of association. It allows unions to determine internal rules freely, elect officials and manage activities, and forbids the dissolution of trade unions by administrative fiat. In 1999 President Pastrana approved Law 584, which limits government interference in a union's right to free association. The law reflects recommendations made by the ILO Direct Contacts Mission and corresponds to international labor legislation. Previous requirements that were repealed under this law include the requirement that in order for a trade union to be registered, the labor inspector must certify that there is no other union. The law also amends the requirement that labor authorities must be present at general assemblies convened to vote on calling a strike (the trade unions now have the choice of having labor authorities present or not). However, the law added the requirement that when there is a request for information from an interested party, Ministry of Labor officials can require trade union leaders or members to provide relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers that this amendment is not in conformity with the freedom of association convention since control by an administrative authority should be used only for carrying out investigations when there are reasonable grounds that an offense has been committed.

According to estimates by the Ministry of Labor and various unions, 6 to 7 percent of the work force is organized. According to the Colombian Commission of Jurists, 89 percent of those organized are public sector workers. There are approximately 2,500 registered unions, 87 to 95 percent of which are organized in one of three confederations: The center-left United Workers' Central, with which 45 to 50 percent of unions are affiliated; the Maoist/Social Christian Colombian Democratic Workers' Confederation, with which approximately 30 percent of unions are affiliated; and the Liberal Party-affiliated Confederation of Colombian Workers (CTC), with which 12 to 15 percent of unions are affiliated. Unions and Ministry of Labor officials report that union membership has declined in recent years.

Before staging a legal strike, unions must negotiate directly with management and, if no agreement results, accept mediation. By law, public employees must accept binding arbitration if mediation fails; in practice, public service unions decide by membership vote whether or not to seek arbitration. In early August leaders of some unions called for a 24-hour strike by an estimated 700,000 state workers, including the Syndicated Union of Workers (USO) oil workers, the main public sector employees' union, telecommunications workers, teachers, and health workers, to protest government austerity workers and high unemployment.

Unions, indigenous groups, debtors, students, and others continued to both protest and negotiate with the Government over the latter's inability to confront the country's economic downturn, soaring unemployment, and a Labor Code reform bill which may eliminate several popular worker benefits. On August 3, a general strike organized by various unions, including the United Workers' Central (CUT) and the General Confederation of Democratic Workers (CGTD), protested economic policies, privatizations, unemployment, new taxes, and social security reforms in Bogota and other cities throughout the country. Union strikers were joined by bank employees and state workers, such as teachers and health employees.

Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Labor leaders and NGO's reported that 105 union members were killed during the year; U.N. officials reported 54 murders of labor leaders during the first 10 months of the year. According to the National Labor School (ENS), approximately 1,500 union members have been murdered since 1991, and unions face widespread societal hostility because they are seen by some observers as "subversive." Trade union leaders allege that 90 percent of victims were killed by paramilitary groups. Other victims were targeted by the FARC for their membership in, or sympathy with, the National Syndicate of Agricultural Industry Workers (Sintrainagro), a union largely composed of demobilized EPL members. Many of the murdered Sintrainagro members had worked in the banana industry in the Uraba region. The ILO Direct Contact Mission preliminary report in March noted that "cases where the instigators and perpetrators of the murders of trade union leaders are identified are practically nonexistent, as is the handing down of guilty verdicts." The ENS also reported that in the last 5 years, 47 unionists have been the victims of forced disappearances, 60 unionists were kidnaped, and 1,573 unionists received death threats. The USO reported that at least 600 trade union leaders were displaced during the first 10 months of the year.

In May 1998, the ILO expressed serious concern over allegations of murders, forced disappearances, death threats, and other acts of violence against trade union

officials and members. The ILO documented more than 300 murders of trade union members during 1995–98. The ILO criticized the Government for failing, since November 1996, to provide it with information on a single case of detention, trial, and conviction of anyone responsible for the murder of union officials and members.

In February an ILO Direct Contacts Mission, which had been approved by the ILO Governing Body and accepted by the Government in November 1999, visited the country to examine alleged abuses of workers' rights to life, free association, and collective bargaining. In March the Direct Contacts Mission presented a preliminary report to the Governing Body's committee on freedom of association, which noted that the Government was "making sincere efforts" to address these problems. The report expressed concern over the number of killings, kidnappings, death threats, and other violent assaults on trade union leaders and unionized workers and stated that killings of trade union leaders and unionized workers were a "regular" occurrence.

Government efforts to overcome impunity include the establishment of 25 special human rights investigative subunits, one of which is responsible for cases of human rights violations of trade unionists, and a 49 percent increase in the legal budget for judicial employees. To protect trade unionists from violence, in 1999 the Government developed the Program for the Protection of Human Rights Defenders and Trade Union Leaders. As of November, the program provided protection for 41 trade union premises and protection for 116 leaders and activists. These individuals are provided with bulletproof vests, bodyguards, and in some cases vehicles. Trade unionists complain that these measures are insufficient to protect adequately the large number of trade unionists who are threatened, and continue to press for more efforts to break the impunity with which most of these acts are committed.

The ILO's recommendations included an urgent and global inquiry into the participation of public officials in the creation of self-defense or paramilitary groups; an increase in government budgetary allocations to protect trade union officials; and an increase in efforts to combat impunity. After a contentious debate at the June International Labor Conference, the Government and worker delegations agreed to a compromise offered by the ILO Director General Juan Somavia: the establishment of an ILO office in Bogota to be headed by his personal representative. Rafael Alburquerque was appointed ILO Special Representative to Colombia and began work in October. In November Alburquerque reported to the ILO Governing Body that the situation continues to be grave; the Special Representative's next report is expected in March 2001.

On May 4, Javier Suarez, the leader of a truck drivers' union, was shot and killed near his home in Buenaventura. Union leaders suspected that paramilitary groups were responsible.

In early August, Carmen Emilio Sanchez Coronel, a trade unionist with the teacher's union in Norte de Santander department, was killed along with seven other trade unionists at a paramilitary roadblock. The CUT also blamed paramilitary forces for the August 2 death of Antioquia union worker Luis Rodrigo Restrepo. The CUT alleged that paramilitary groups were targeting its rank and file members as well as union leaders.

On December 15, five men seriously wounded Wilson Borja, president of public employees' union FENALTRASE, when they fired on his car at a stoplight in an apparent attempt to kill him. The attackers killed a 30-year-old female street vendor and wounded one of Borja's two bodyguards. Paramilitary leader Carlos Castano publicly admitted ordering the attack and claimed that he meant to "detain" Borja. Most observers connected the attempt, which followed press reports of progress toward establishing an ELN "encounter zone," with Borja's role in facilitating the ELN peace process. Police detained one suspected gunman and a possible paramilitary accomplice within days of the attack.

Prosecutors have outstanding warrants for the arrest of paramilitary members Temilda Rosa Martinez and Eduardo Manrique Morales in the February 1999 killing of 72-year-old Julio Alfonso Poveda, a CUT founder.

In December the Prosecutor General's office arraigned three hired killers alleged to have murdered CUT vice president Jorge Ortega in 1998.

There were no leads in the August 1999 bomb incidents at both the Sincelejo, Sucre department offices of the Association of Rural Land Users (which was destroyed by a bomb) and at the Medellin office of the USO, where a bomb was defused. According to the ENS, there have been 14 bombing attempts against union offices in the last 3 years.

The Government still has not addressed a number of ILO criticisms of the Labor Code. In 1993 the ILO had complained about the following provisions of the law: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that con-

tenders for trade union office must belong to the occupation their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Minister of Labor and the President to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

The expired 1995 collective work convention between Ecopetrol and the USO was replaced by a new agreement in May 1999. USO leadership remained in open conflict with the Government on many issues. USO leaders reported that its members in the oilproducing Magdalena Medio region continued to receive death threats from presumed paramilitary groups, who have accused USO officials of working with the ELN guerrillas waging a sabotage campaign against the country's oil pipelines.

Unions are free to join international confederations without government restrictions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right of workers to organize and engage in collective bargaining. Workers in larger firms and public services have been most successful in organizing, but these unionized workers represent only a small portion of the economically active population. High unemployment, traditional antiunion attitudes, a large informal economic sector, and weak union organization and leadership limit workers' bargaining power in all sectors. The requirement that trade unions must cover the majority of workers in each company as a condition for representing them in sectoral agreements further weakens workers' bargaining power.

The law forbids antiunion discrimination and the obstruction of free association; however, according to union leaders, both discrimination and obstruction of free association occurred frequently. Government labor inspectors theoretically enforce these provisions, but because there are 271 labor inspectors to cover 1,085 municipalities and more than 300,000 companies, the inspection apparatus is weak. Furthermore, labor inspectors often lacked basic equipment, such as vehicles. Guerrillas sometimes deterred labor inspectors from performing their duties by declaring them military targets.

The Labor Code calls for fines to be levied for restricting freedom of association and prohibits the use of strike breakers.

Collective pacts—agreements between individual workers and their employers—are not subject to collective bargaining and typically are used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code also eliminates mandatory mediation in private labor-management disputes and extends the grace period before the Government can intervene in a conflict. Federations and confederations may assist affiliate unions in collective bargaining.

Labor law applies to the country's 15 free trade zones (FTZ's), but its standards often were not enforced in the zones. Public employee unions have won collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta, but the garment manufacturing enterprises in Medellin and Risaralda, which have the largest number of employees, are not organized. Labor unions do not exist in any of the zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition generally is respected in practice in the formal sector; however, women were trafficked for the purpose of forced prostitution (see Section 6.f.).

Paramilitary forces and guerrilla groups forcibly conscripted indigenous people (see Section 5). There were some reports that the guerrillas used forced labor to build clandestine roads.

The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (see Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Section 1.g.), to work as prostitutes (see Section 5), or in some instances as coca pickers.

Trafficking in girls for the purpose of forced prostitution is a problem (see Section 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 in most jobs, and the Labor Code prohibits the granting of work permits to youths under the age of 18; however, child labor is a significant problem, particularly in the informal sector. A 1989 decree established the Minors' Code and prohibited the employment of children under age 12. It also stipulated exceptional conditions and the express author-

ization of Labor Ministry inspectors for the employment of children between the ages of 12 and 17 years. Children under age 14 are prohibited from working, with the exception that those between the ages of 12 and 14 may perform very light work with the permission of their parents and appropriate labor authorities. All child workers (anyone under the age of 18) must receive the national minimum wage for the hours they work. Children between the ages of 12 and 14 can work a maximum of 4 hours a day; children between the ages of 14 and 16 can work a maximum of 6 hours a day; and children between the ages of 16 and 18 can work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work in which there is a risk of bodily harm or exposure to excessive heat, cold, or noise. A number of specific occupations are prohibited for children as well, such as mining and construction. However, these requirements largely are ignored in practice, and only 5 percent of those children who work have filed for the required work permits. By allowing children between the ages of 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years.

In the formal sector, child labor laws are enforced through periodic review by the Ministry of Labor and by the military, which ensures compliance with mandatory service requirements. However, in the informal labor sector and in rural areas, child labor continues to be a problem, particularly in agriculture and mining. Children as young as 11 years of age work full-time in almost every aspect of the cut flower industry as a way to supplement family income. Even children enrolled in school or, in some cases, those too young for school, accompany their parents to work at flower plantations at night and on weekends. In the mining sector, coal mining presents the most difficult child labor problem. Many marginal, usually family-run, mining operations employ their young children as a way to boost production and income; it is estimated that between 1,200 and 2,000 children are involved. The work is dangerous and the hours are long. Younger children carry water and package coal, while those age 14 and up engage in more physically demanding labor such as carrying bags of coal. These informal mining operations are illegal. The Ministry of Labor reported that, by the end of 1999 an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school. The law prohibits the employment of minors for prostitution; however, child prostitution is a problem. In August the Prosecutor General's Specialized Sex Crimes and Human Dignity Unit reported that from August 1999 to August 2000 it opened 41 cases in which a child under age 14 was induced or lured into prostitution.

A Catholic Church study conducted in May 1999 reported that approximately 2.7 million children work, including approximately 700,000 who worked as coca pickers. This represented a sharp increase from 1992, when according to a 1997 study by Los Andes University, approximately 1.6 million children (between the ages of 12 and 17) worked. One observer noted that the recent economic downturn might increase the number of children working, especially in rural areas. Child participation in agricultural work soared at harvest times. According to the Ministry of Labor, working children between the ages of 7 and 15 earned on average between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children had regular access to health care; approximately 25 percent were employed in potentially dangerous activities. The ICBF estimated that paramilitary and guerrilla groups employed 6,000 children as combatants (see Section 5). School attendance by working children was significantly lower than for nonworking children, especially in rural areas. The health services of the social security system cover only 10 percent of child laborers. A 1996 study by the national Human Rights Ombudsman of child labor in Putumayo department found that 22 percent of the children between the ages of 5 and 18 were full-time coca pickers. In the municipality of Orito, the figure reached 70 percent.

The Labor Ministry has an inspector in each of the 33 departments responsible for certifying and conducting repeat inspections of workplaces that employ children; however, this system has few resources and covered only the 20 percent of the child work force employed in the formal sector of the economy. In 1995 the Government established a National Committee for the Eradication of Child Labor, made up of representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGO's. Under the Action Plan, the Government distributed funds during the year to member organizations of the committee for child labor eradication projects. The Government also obtained commitments from the country's leading trade associations and unions to implement child labor eradication programs with the jointly ILO's IPEC program, these programs were in the preparatory stages

at year's end. During the year, the Government formulated a 2000–02 Action Plan which gives priority to direct intervention on behalf of domestic child workers, child miners, sexually exploited children, children in trade activities and children in the agricultural sector. It has also designed a project, for which it is seeking funding, to collect more reliable national data on child labor.

The Government is taking steps to incorporate into national law, ILO Convention 182 concerning the prohibition of and immediate action for the elimination of the worst forms of child labor.

The Government prohibits forced and bonded labor by children; however, it is unable to enforce this prohibition effectively, and trafficking in girls for the purpose of forced prostitution and the forced recruitment of child soldiers are problems (see Sections 1.f., 1.g., 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government was about \$150 (322,500 pesos) throughout the year. The minimum wage does not provide a decent standard of living for a worker and family. Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation in recent years. A total of 70 percent of all workers earn wages that are insufficient to cover the costs of the Government's estimated low-income family shopping basket. However, 77 percent of all workers earn no more than, and often much less than, twice the minimum wage.

The law provides for a standard workday of 8 hours and a 48-hour workweek, but it does not require specifically a weekly rest period of at least 24 hours, a failing criticized by the ILO.

Legislation provides comprehensive protection for workers' occupational safety and health; however, these standards are difficult to enforce, in part due to the small number of Labor Ministry inspectors. In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in a high-level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lack safety plans. The Social Security Institute reported 53,408 work-related accidents during the year, which resulted in 417 deaths. There were 243 cases of work-related illness. The industries most prone to worker accidents were mining, construction, and transportation.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers in the informal sector fear the loss of their jobs if they exercise their right to criticize abuses, particularly in the agricultural sector.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, and the country is a source for trafficking in women and girls to Europe, the United States, and Asia. In June Congress approved a new Criminal Code, which provides for a prison term of 6 to 8 years and a fine up to the equivalent of 100 times the minimum legal monthly salary for any person who "promotes, induces, compels, facilitates, collaborates, or in any other way participates in the entry or exit of people into or from the country without complying with all legal requisites." While intended to combat alien smuggling in general, the law could be used to prosecute traffickers as well. The law is scheduled to enter into effect in January 2001.

A government committee composed of representatives of the Ministry of Foreign Affairs, Interpol, the DAS, the Ministry of Justice, the Attorney General's office, the Prosecutor General's office, and the presidency meets once every 2 months to discuss trafficking in persons. In November the Ministry of Justice, the Organization for International Migration, and NGO Hope Foundation held the first national conference on trafficking in persons.

The DAS reported at that conference that Colombia is the third most common country of origin of trafficking victims, and that the majority of Colombian women trafficked for prostitution go to the Netherlands, Spain, Japan, Singapore, and Hong Kong. The Organization for Security and Cooperation in Europe issued a report on trafficking in persons in September 1999, which stated that women and girls from Colombia also are trafficked to North America. According to press reports, more than 50 percent of women from Colombia who enter Japan are trafficking victims forced to work as prostitutes. According to the DAS, 126 Colombian trafficking victims have been rescued abroad by Interpol during 1998–2000, and 115 victims were rescued by the National Police during 1999–2000. According to police, the majority of international trafficking operations are managed by Colombians and have ties to narcotics trafficking.

First Lady Nohra Pastrana, in conjunction with the Foreign Affairs Ministry and Interpol, participated in a public relations campaign to alert citizens, in particular women, to the risks of immigrating illegally to other countries.

On June 23, a Colombian woman trafficked to Denmark was granted asylum in Denmark after testifying against Colombian and Danish traffickers. In August police in Andalusia, Spain, detained 51 persons and broke up a ring that trafficked women from Brazil, Colombia, and Ecuador for purposes of prostitution.

## COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the February 1998 elections, in which approximately 70 percent of eligible voters cast ballots. The judiciary is independent.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the antidrug police—and the Ministry of the Presidency share responsibility for law enforcement and national security. In 1996 the Government combined several police units within the Ministry of Public Security, including the Border Guard, the Rural Guard, and the Civil Guard, into a single “public force.” Public security forces generally observe procedural safeguards established by law and the Constitution; however, members of these forces occasionally committed human rights abuses.

The market economy is based primarily on light industry, tourism, and agriculture. Real gross domestic product (GDP) growth was estimated at 1.4 percent, compared with 8 percent in 1999. The government deficit is estimated to have narrowed to 2.1 percent of GDP, compared with 2.3 percent in 1999; however, the public sector deficit remained at 3.3 percent of GDP, the same as in 1999. The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty gaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, there were problems in a few areas. There were some instances of physical abuse by police and prison guards, and reports of police abuse of authority or misconduct increased during the year. The judicial system processes criminal cases very slowly, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and abuse of children also remains a problem. Traditional patterns of unequal opportunity for women remain, in spite of continuing government and media efforts to advocate change. Child labor persists, and child prostitution is a growing problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

The third judicial police officer accused of the 1994 murder of farmer Ciro Monge did not appear for his trial in April, and his whereabouts were unknown at year's end. The two officers convicted in 1997 appealed the rulings and lost; one fled the country in 1998 but was captured and returned to serve his sentence in February.

*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 abide by these prohibitions; however, members of the public forces were responsible for some physical abuse, and reports of police abuse of authority or misconduct increased during the year. An effective mechanism for lodging and recording complaints of police misconduct exists. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, where appropriate, initiates suits against officials.

The Ombudsman's office received 52 reports of police abuse of authority or misconduct during the year, compared with 14 in 1999 and 4 in 1998. The majority of

the reports involved complaints about negligence or corruption, but part of the large increase was due to complaints of alleged police brutality during the Costa Rican Electricity Institute strike (see Sections 2.b. and 6.a.). Police intervention during strike-related protests in downtown San Jose included the use of tear gas and riot gear.

A large percentage of police personnel owe their appointments to political patronage. The Rodriguez administration continued implementation of the 1994 Police Code designed to depoliticize and professionalize the police force. The Government's longterm plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force. The basic course for new police recruits includes training using a human rights manual developed by the Ministry of Public Security.

Prisoners generally receive humane treatment. Prisoners are separated by sex and by level of security (minimum, medium, and maximum). There are separate juvenile detention centers. Illegal narcotics are readily available in the prisons, and drug use is common. As of August, the Ombudsman's office had received two complaints of physical abuse of prisoners by guards, and four complaints of psychological abuse; compared with six complaints of physical abuse and six complaints of psychological abuse in all of 1999. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor.

Penitentiary overcrowding remains a problem, with the prison population estimated at 67 percent above planned capacity in 1999. A study by a U.N. agency found that the prison population grew by 155 percent from 1992-99. The Government is expanding six prisons to address this problem. In March 1996, the Supreme Court's Constitutional Chamber issued an order to the San Sebastian prison in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for the prisoners. As of September, occupancy in that prison was 139 percent above intended capacity, an increase from 108 percent in 1999. In August the Supreme Court's Constitutional Chamber declared that no additional prisoners would be admitted to the San Sebastian prison until it met the U.N. minimum standards for the treatment of the imprisoned. The Ministry of Justice responded by calling on the Rodriguez administration to allocate more funds for prison enhancement. Five additional facilities have been opened and three have been undergoing renovation since 1999 as part of this plan. The Government also approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce overcrowding and to locate prisoners closer to their families.

The Government permits prison visits by independent human rights monitors.

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

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 respect these rights.

The law provides for the right to bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days.

The Constitution bars exile as punishment, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution and law provide for an independent judiciary, and the Government respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may 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 remain in pretrial custody for long periods. Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs. As of February, there were 1,967 accused persons jailed while awaiting trial, representing 21 percent of the prison population.

There were no reports of political prisoners. However, one individual was jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; government authorities generally respect these prohibitions; and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve the use of wiretaps in limited circumstances, primarily to combat narcotics trafficking.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Landowners throughout the country have suffered frequent squatter invasions for years. President Rodriguez said he would give priority to reducing these conflicts, increasing public security, and regularizing land tenure. The Legislative Assembly is reexamining laws that allow occupants of land to gain title through adverse possession. The incidence of squatter invasions had increased in 1999 in anticipation of the land tenure regularization. However, during the year there was only one instance when squatter families were removed. In that case, the Government removed 230 families without reports of protests or violence.

*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 respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system together ensure freedom of speech and of the press.

There are 6 major privately owned newspapers, several periodicals, 20 privately owned television stations, and over 80 privately owned radio stations, all of which pursue independent editorial policies. While the media generally criticized the Government freely, there were unconfirmed allegations that the Government withheld advertising from some publications in order to influence or limit reporting.

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 have 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 assert that such laws have the effect of restricting reporting by the media, and that they wrongly provide public officials with a shield from public scrutiny by citizens and the press.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films are available to the public. A tribunal reviews appeals of the office’s actions.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

In March police intervention to disband strike-related protests in San Jose resulted in complaints to the Ombudsman’s office that such actions were abusive and constituted evidence of police brutality (see Sections 1.c. and 6.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. While the Constitution establishes Roman Catholicism as the state religion, members of all denominations freely practice their religion without government interference. Religious education teachers, including those in public schools, must be certified by the Roman Catholic Episcopal Conference. Foreign missionaries and clergy of all denominations work and proselytize freely.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or on the right of return.

There is a long tradition of providing refuge to persons from other Latin American countries.

The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has admitted approximately 5,000 persons as refugees under terms of the convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status. The issue of the provision of first asylum did not arise. The Constitution specifically prohibits repatriation of anyone subject to potential persecu-

tion, and there were no reports of the forced expulsion of persons to a country where they feared persecution.

The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By June 156,000 Central Americans, 95 percent of whom are Nicaraguans, qualified for and received legal resident status under this government amnesty program.

Immigration officials reported that 4,000 Colombians were expected to emigrate to Costa Rica during the year; 2,831 emigrated in 1999. The majority immigrate legally. However, others seek temporary refugee status, and under the law, are expected to return to their country of origin once the period of conflict ends in their country.

The Government has been reluctant in many cases to state publicly under what status it would grant legal residence. However, according to press reports, the authorities granted 16 Cuban athletes asylum in the period between January 1999 and June, under the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there were 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 exercise 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 ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In September the Constitutional Chamber of the Supreme Court upheld the constitutionality of this provision in response to a petition filed by private citizens. The case is expected to be appealed to the Inter-American Court of Human Rights for a determination of whether the ban on presidential reelection constitutes an infringement of citizens' rights to vote and run for office.

In the 1998 elections, President Rodriguez's Social Christian Unity Party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties—the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties—each won 1 seat.

Women encounter no legal impediments to their participation in politics; however, while they are underrepresented overall, women are represented increasingly in leadership positions in the Government and political parties. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Sonia Picado, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Pizsk continues as Ombudsman, a key autonomous post created in 1993 to protect the rights and interests of citizens in their dealings with the Government, and Linette Saborio remained the Director General of the judicial investigative organization. The PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women and created the Ministry of Women's Affairs, headed by Dr. Gloria Valerin. In 1998 female legislators formed the Foundation of Women Parliamentarians of Costa Rica to commemorate the 45th anniversary of the first female members of the Assembly. The group's principal focus is to promote women's involvement in politics through informational meetings and public awareness campaigns, but it also works for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government; however, in practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. They account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the National Assembly identifies himself as indigenous. There are two black members in the Assembly. The country's 100,000 blacks, who mostly reside on the Caribbean coast, enjoy 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 operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica monitor and report on human rights, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judgmental independence of the Ombudsman's office.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

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

The Constitution provides that all persons are equal before the law, and the Government generally respects these provisions.

*Women.*—The Government has identified domestic violence against women and children as a serious societal problem. The Costa Rican Women's Defense Office handled 5,188 cases of domestic violence in 1999. The Law Against Domestic Violence classifies certain acts of domestic violence as crimes and mandates their prosecution. An old law permitted a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object; however, an August 1999 reform to the Penal Code rendered this article void. The authorities have 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 female victims of domestic violence. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, possibly reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the work place and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution and sex tourism are both legal for persons over the age of 18. The prohibition against trafficking in women for the purpose of prostitution was strengthened by a statute that went into effect in August 1999, although there have been only infrequent and isolated cases reported in the past (see Section 6.f.).

Women constitute 50.1 percent of the population. In 1998 President Rodriguez created the Ministry of Women's Affairs. 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. In March 1996, the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men. The plan is based on the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995. As part of the plan, the Government established an office for gender issues in the Ministry of Labor; similar offices are planned in two other ministries.

According to the United Nations Development Program (UNDP) 1999 Human Development Report, women represent 31 percent of the labor force. Most women work in the services sector, with others working in industry and agriculture. While laws require that women and men receive equal pay for equal work, average salaries for women remain somewhat below those of their male counterparts. According to 1997 UNDP data, women occupy 45 percent of executive, management, and technical positions.

*Children.*—The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The Government spends over 5 percent of GDP on medical care. In June 1998, the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (14 persons per 1,000). The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. The autonomous

National Institute for Children (PANI) oversees implementation of the Government's programs for children. In December 1996, the Assembly passed a law strengthening the PANI's role in protecting and promoting the rights of children, in accordance with the provisions of the U.N. Convention on the Rights of the Child.

In recent years, the PANI has increased public awareness of abuse of children, which remains a problem. From January to June, the Institute intervened in 3,704 cases of abandonment, 1,013 cases of physical abuse, 536 cases of sexual abuse, and 885 cases of psychological abuse of children. The PANI attributed the increase in cases reported to better reporting capabilities and an increase in patterns of child abuse. There was also a continued increase in reported psychological abuse cases because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it. Abuses appear to be more prevalent among poor, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

In February 1996, the PANI announced a comprehensive plan to improve the conditions of the poorest children. According to Institute estimates, 19 percent of children between the ages of 5 and 17 are employed in domestic tasks, while 15 percent work outside the home. The Government, police sources, and UNICEF representatives acknowledge that child prostitution is a growing problem. Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. Estimates of the number of children involved in prostitution vary widely. An International Labor Organization (ILO) study of four San Jose neighborhoods in 1998-99 identified at least 212 minor girls working as prostitutes, but other countrywide estimates are higher. A PANI study estimated that some 40 families in August supported themselves by "renting" their children to sex tourists. In July 1999, the Legislative Assembly passed the Law Against the Sexual Exploitation of Minors, which specifically penalizes persons who use children and adolescents for erotic purposes and made 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 has raided brothels and arrested clients. The law provides for prison sentences from 4 to 10 years for those managing or promoting child prostitution. The authorities brought charges against 30 persons for violating the law and had convicted 4 persons by year's end.

Casa Alianza operates a 24-hour telephone help line that received 240 accusations of exploitation of minors. In March the organization made a presentation to the Inter-American Commission on Human Rights (IACHR) about what it termed the growing commercial sexual exploitation of children in the country. Casa Alianza criticized the Government for not providing the PANI with 7 percent of national tax revenue, as stipulated by the law creating the Institute, and also criticized the Government for the relatively low number of persons actually charged, found guilty, and sentenced for child exploitation.

*People 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 is not enforced widely, and many buildings remain inaccessible to persons with disabilities. In July a government study concluded that only 35 percent of the law's stated goals had been implemented. Nonetheless, a number of public and private institutions have made individual efforts to improve access. In 1999 the PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit disorder, and mental retardation. In October the Ministry reported that since 1998 there had been a 20 percent increase in special education services offered throughout the country, and that 116 special education centers had been created.

*Indigenous People.*—The population of about 3.5 million includes nearly 40,000 indigenous people among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, completed distribution of identification cards to facilitate access to public medical facilities in 1999. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has established an office to investigate violations of the rights of indigenous people. In January 1999, a group of indigenous people from Puntarenas challenged the constitutionality of the 1978 Indigenous Law because of their inability to possess private property on the reservation. The Supreme Court's Constitutional Chamber rejected this challenge in January.

*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, although barriers exist in practice. About 15 percent of the work force is unionized, almost entirely in the public sector. Unions operate independently of government control.

Some trade union leaders contend that “solidarity” associations, in which employers provide access to credit unions and savings plans in return for agreement to avoid strikes and other types of confrontation, infringe upon the right of association. After the ILO Committee on Freedom of Association (CFA) ruled that solidarity associations and their involvement in trade union activities violated freedom of association, the Government amended the Labor Code in 1993. The following year, the ILO Committee of Experts (COE) ruled that these and other planned changes fostered greater freedom of association. In 1995 the COE encouraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. The International Confederation of Free Trade Unions (ICFTU) reported that the Labor Ministry provided information about newly formed unions to employers who then encouraged formation of solidarity associations and blacklisted union members. The Labor Ministry denied the reports but acknowledged that solidarity association culture is deeply embedded. During 1999 and 2000, the Labor Ministry received 13 complaints (representing 7 incidents) charging explicit antiunion discrimination.

In June 1998, the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration’s national reconciliation process. In August the Rerum Novarum confederation resubmitted the complaint against the Government; they had not received a response at year’s end.

The Constitution and Labor Code restrict the right of public sector workers to strike. However, in February 1998, the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

In March the Supreme Court’s Constitutional Chamber clarified the law forbidding public sector strikes. It ruled that public sector strikes may be allowed only if a judge approves them beforehand and finds that “services necessary to the well-being of the public” are not jeopardized. Public sector workers who decide to strike can no longer be penalized by a prison sentence but can face charges of breach of contract.

In March Costa Rican Electricity Institute (ICE) workers, employees from public hospitals, teachers, students, taxi drivers, and public transportation workers called a general strike that lasted several days to protest the passage of legislation which would partially open the ICE to private participation (see Sections 1.c. and 2.b.).

There are no legal restrictions on the right of private sector workers to strike, but very few workers in this sector belong to unions. Private sector strikes rarely occur; however, their frequency increased during the year.

Unions may form federations and confederations and affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right to organize. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation. The revised provisions require employers who are found guilty of discrimination to reinstate workers fired for union activities. However, the ILO’s CFA reported that harassment is still used to force workers to leave unions, and that other violations of labor legislation continue to occur. In one incident, a company in the banana industry refused to negotiate with a legitimate union for 3 years. The company eventually fired the union leader and established a solidarity association.

Trade unions claim that the 1993 reforms have not led to significant improvements because the Government has not enforced the law effectively. However, the Labor Ministry hired an additional 10 labor inspectors who are able to expedite such cases. The Constitutional Chamber ruled that the labor inspectorate must comply with the 2-month time limit for investigations. Most cases take up to 2 months to resolve, but some may take longer if the judge decides that an unusual situation merits further investigation and requires witnesses. Delays in processing court rulings are common throughout the judicial branch.

Public sector workers cannot engage in collective bargaining because the Public Administration Act of 1978 makes labor law inapplicable in relations between the

Government and its employees. However, the Supreme Court has affirmed their right to strike (see Section 6.a.). In August 1999, the Government negotiated a wage increase following a 7-day strike by public sector workers. Private sector unions have the legal right to engage in collective bargaining.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's. It reported that after an effort to hire additional inspectors, it now has 1 inspector for every 9,000 workers, compared with 1 for every 30,000 in 1999.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no known instances of such practices. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution and the Labor Code provide special employment protection for women and children and establish a minimum working age of 15 years. The Legislative Assembly adopted the Code on Childhood and Adolescence in December 1997, which includes provisions designed to implement the U.N. Convention on the Rights of the Child. Adolescents between the ages of 15 and 18 can work for a maximum of 6 hours daily and 36 hours weekly, while children under age 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. Due to limited government resources for enforcement, some children work 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. A 1999 study by the Census Bureau and Ministry of Labor estimated that 8.9 percent of the population between the ages of 5 and 14 are involved in the country's formal and informal workforce, and found that 70 percent of these children are boys. However, the study also indicated that the number of minor children in the workforce has dropped steadily over the past 10 years.

With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. The Government formed the National Directive Committee for the Progressive Eradication of Child Labor and Protection of Adolescent Laborers in 1990. Representatives from the PANI, the Ministry of Labor, the Ministry of Justice, the Ministry of Public Security, the Ombudsman's Office, UNICEF, the ILO, and area universities are part of the committee. In April 1999, the Committee conducted an aggressive public awareness campaign as part of its national plan. The campaign addressed child labor and explained existing legislation to audiences of different age groups. The Ministry of Labor maintains an Office for the Eradication of Child Labor, which cooperates with projects sponsored by the ILO, U.N. Development Program, and other entities. Nonetheless, child labor remains an integral part of the informal economy, particularly in small-scale agriculture and family-run microenterprises selling various items, which employ a significant proportion of the labor force. Child prostitution is a growing problem (see Section 5). The law prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

In October the International Relations Commission of the Legislative Assembly approved ILO Convention 182 on the eradication of the worst forms of child labor for debate on the Assembly floor, which was scheduled for the session beginning in December.

*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, sets minimum wage and salary levels for all sectors. Monthly minimum wages, last adjusted in July for the private sector, range from \$137 (42,373 colones) for domestic employees to \$662 (205,365 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor effectively enforces minimum wages in the San Jose area, but does so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage is insufficient 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 do not receive overtime pay if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce 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 establish such committees but either do not use the committees or do not turn them into effective instruments for improving workplace conditions. Due partly to budgetary constraints, the Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, ministry programs to hire additional inspections and enhance inspector training programs have resulted in some progress. While workers have the right to leave work if conditions become dangerous, workers who do so may jeopardize their jobs unless they file written complaints with the Labor Ministry.

*f. Trafficking in Persons.*—The law prohibits trafficking in women for the purpose of prostitution, and in August 1999, a statute went into effect that strengthens this prohibition. There have been only infrequent and isolated cases of trafficking in women in the past (see Section 5). However, in its March submission to the IACHR, Casa Alianza asserted that there was trafficking in women from Colombia, the Dominican Republic, and the Philippines to the country. Local authorities lack the resources necessary to address this problem; there is little in the way of government protection, aid, or educational campaigns for persons who have been trafficked to or from the country. The Ministry of Women's Issues began an awareness campaign in 1999 to educate women about the dangers of trafficking.

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## CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander-in-chief of the armed forces. President Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies already decided by the Government. The 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 organ of state security and totalitarian control. Officers of the Revolutionary Armed Forces (FAR), which are led by President Castro's brother, Raul, have been assigned to the majority of key positions in the Ministry of Interior in recent 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 investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution (CDR's). The Government traditionally uses the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. During the early 1990's, economic problems reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR's effectiveness. Other mass organizations also inject government and Communist Party control into citizens' daily activities at home, work, and school. Members of the security forces committed serious human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures with it. Foreign companies are required to contract workers only through Cuban state agencies, which receive hard currency payments for the workers' labor but in turn pay the workers a fraction of this (usually 5 percent) in local currency. In 1998 the Government retracted some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by imposing relatively high taxes on self-employed persons. In September the Minister of Labor and Social Security publicly stated that more stringent laws should be promulgated to govern self-employment. He suggested that the Ministry of Interior, the National Tax Office, and the Ministry of Finance act in a coordinated fashion in order to reduce "the illegal activities" of the many self-em-

ployed. According to government officials, the number of self-employed persons as of September was 156,000, a decrease from the 166,000 reported in 1999.

According to official figures, the economy grew 5.6 percent during the year. Despite this, overall economic output remains below the levels prior to the drop of at least 35 percent in gross domestic product that occurred in the early 1990's due to the inefficiencies of the centrally controlled economic system; the loss of billions of dollars of annual Soviet bloc trade and Soviet subsidies; the ongoing deterioration of plants, equipment, and the transportation system; and the continued poor performance of the important sugar sector. The 1999–2000 sugar harvest (just over 4 million tons) was marginally better than the 1998–99 harvest. The 1997–98 harvest was considered the worst in more than 50 years. For the tenth straight year, the Government continued its austerity measures known as the “special period in peacetime.” Agricultural markets, legalized in 1994, provide consumers wider access to meat and produce, although at prices beyond the reach of most citizens living on peso-only incomes or pensions. Given these conditions, the flow of hundreds of millions of dollars in remittances from the exile community significantly helps those who receive dollars to survive. Tourism remained a key source of revenue for the Government. The system of so-called tourist apartheid continued, with foreign visitors who pay in hard currency receiving preference over citizens for food, consumer products, and medical services. Most citizens remain barred from tourist hotels, beaches, and resorts.

The Government's human rights record remained poor. It continued to violate systematically the fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. There were unconfirmed reports of extrajudicial killings by the police, and reports that prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh. The authorities continued routinely 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, and it offered political prisoners the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news, reserving them for selected party faithful, and maintained strict censorship of news and information to the public. The Government restricts some religious activities but permits others. Before and after the January 1998 visit of Pope John Paul II, the Government permitted some public processions on feast days, and reinstated Christmas as an official holiday; however, it has not responded to the papal appeal that the Church be allowed to play a greater role in society. During the year, the Government allowed two new priests to enter the country (as professors in a seminary) and another two to replace two priests whose visas were not renewed. However, the applications of many priests and religious workers remained pending, and some visas were issued for periods of only 3 to 6 months. The Government kept tight restrictions on freedom of movement, including foreign travel. 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 are problems. Racial discrimination occurs. The Government severely restricted worker rights, including the right to form independent unions. The Government prohibits forced and bonded labor by children; however, it requires children to do farm work without compensation during their summer vacation.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings. There were unconfirmed reports of deaths due to the excessive use of force by the national police.

On October 6, according to a report by the Agencia de Prensa Libre Oriental (APLO—an independent news agency), a policeman shot 41-year-old Leovigildo Oliva, from El Poblado, Dos Caminos de San Luis, Santiago province, as he was returning home in the early morning on horseback carrying a bag of animal feed.

Oliva was taken to the hospital and died a few hours later. No explanation was given for the shooting.

On December 28, 27-year-old Leonardo Horta Camacho was shot and killed. According to some reports, Horta apparently was shot while trying to steal a pig; a policeman reportedly told Horta's girlfriend that he was accidentally shot while struggling with a policeman. Another version was that police thought Horta was one of two escaped prisoners that they were searching for.

Government sanctions against perpetrators were light or nonexistent in the cases of deaths due to excessive use of force that occurred in 1998. There was no information available about the results of any investigations into the 1998 deaths of Wilfredo Martinez Perez, Yuset Ochoterena, and Reinery Marrera Toldedo.

During the year, there were reports that prisoners died in jail due to lack of medical care (see Section 1.c.).

In 1996 the Inter-American Commission on Human Rights (IACHR) issued its final report on the Government's July 1994 sinking of the 13th of March tugboat, which killed 41 persons. The IACHR ordered the Government to indemnify the survivors and the relatives of the victims for the damages caused. At year's end, the Government still had not done so. The Government detained a number of human rights activists to prevent them from participating in a Mass in memory of the victims on the anniversary of the deaths (see Sections 1.d. and 2.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, there were instances in which members of the security forces beat and otherwise abused human rights advocates, detainees, and prisoners. There were numerous reports of disproportionate police harassment of black youths (see Section 5).

On January 22, Communist Party members attacked members of the Sigler Amaya family in their home in Pedro Betancourt, in the province of Matanzas, in the presence of police officers. The family was concluding a fast for the release of two of their family members, Guido Sigler Amaya and Ariel Sigler Amaya, who were detained on December 15, 1999. After destroying a number of placards, the 10 party members attacked several persons in the family with sticks. Juan Francisco Sigler Amaya was knocked unconscious; Miguel Sigler Amaya suffered a broken rib; Gulliver and Ulises Sigler Gonzalez, the sons of Juan Francisco, received lesser injuries. Party members also beat Gloria Amaya Gonzalez, the grandmother. After the attack, police officers entered the house and arrested all the men in the house. The police did not arrest the attackers. On January 23, the authorities released Juan Rogelio "Yeyo" Gonzalez, Juan Francisco Martinez, and Miguel Sigler Amaya but fined them for disturbing the peace and causing public disorder. At year's end, the Government had not sanctioned any of the Communist Party members for this attack. Police released Guido Sigler Amaya on July 9, and Airl Sigler Amaya on August 5.

On July 13, Ernesto La O Ramos of the "Maximo Gomez National Civic Movement," reportedly planned to place flowers in a nearby river in commemoration of the death of 41 persons, who died in the sinking of the 13th of March tugboat in 1994. A policeman warned La O Ramos not to go to the river. When he refused, the policeman brought him to the police station. On the way to the police station, La O Ramos greeted a friend, and the policeman reportedly interpreted this as an indication that La O Ramos intended to run away. The officer hit La O Ramos in the face, fracturing his nose and breaking his eye glasses. La O Ramos was cited for disrespect and his trial on August 3 was postponed until further notice. However, on September 29, the judge dismissed the charges against La O Ramos.

The Government continued to subject persons who disagree with it to acts of repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims are obliged to stage public protests against those who dissent with the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occur. Police and state security agents are often present but take no action to prevent or end the attacks. Those who refuse to participate in these actions face disciplinary action, including loss of employment.

During the year, there were no massive acts of repudiation directed against the homes of individual human rights activists; however, there were smaller-scale acts of repudiation, known as "reuniones relampagos," or rapid repudiations. These acts are conducted by a small number of persons, usually not from the person's neighborhood, and can last up to 30 minutes. These individuals shout epithets and throw stones or other objects at the target's house. For example, in the early morning on June 21, a small group of persons threw stones, tomatoes, and eggs for about 10

minutes at the home of Yvette Rodriguez Manzanares in Santiago de Cuba. Rodriguez is a member of Followers of Chibas Movement (MSC).

On the night of August 12, unknown persons threw stones at the house of Nelson Parra Polanco, a member of the Democratic Solidarity Party in Manzanillo in the province of Granma. On September 27, just before midnight, an unknown number of persons entered the yard of the house of Isabel del Pino, president of the Association of Humanitarian Followers of Christ the King, and knocked loudly on her door. The crowd also shouted abusive language, such as "Down with the Worm" ("Abajo la gusanera"), "Let the worms leave" ("Que se vayan los gusanos"), etc.

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also are harsh. The Government claims that prisoners have 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. Human Rights Watch (HRW) reported that in February 1999, the Government revised the Penal Code to provide that prisoners cannot be subjected to corporal punishment, nor is it permitted to employ any means against them to humiliate them or to lessen their dignity. However, the revised code failed to establish penalties for committing such acts.

The Government regularly violated prisoners' rights by failing to provide adequate nutrition and medical attention. On June 1, APLÓ reported that Marcelo Diosdado Amelo Rodriguez, imprisoned in Boniato, was not receiving medicine for hypertension and circulatory problems. In June the Inter-American Press Association (IAPA) called on the Government to provide medical treatment to two journalists serving prison sentences. The two journalists suffered from hepatitis and serious influenza, and the IAPA feared that one might contract tuberculosis. On July 27, an independent press agency reported the death of common prisoner Lucia Castelua Padron because prison authorities did not transfer her to a hospital to receive treatment for hepatitis. In 1997 the IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the former U.N. Special Rapporteur on Cuba, as well as other human rights monitoring organizations, reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition.

On April 10, over 100 prisoners in Prison 1580, located in the Havana City municipality of San Miguel del Padron, protested the lack of medical attention and requested better prison conditions. On May 3, a number of prisoners reportedly rioted in Kilo 7, a prison in Camaguey, and requested better medical treatment, better food, and personal respect. Special police forces apparently attacked the prisoners and terminated the strike, an action that resulted in 20 prisoners being hospitalized.

Prison guards and state security officials also subjected human rights and pro-democracy 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.

There are separate prison facilities for women and for minors.

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. Prison authorities also routinely denied religious workers access to detainees and prisoners.

Political prisoners are required to comply with the rules for common criminals and often are punished severely if they refuse. They often are placed in punishment cells and held in isolation. Detainees and prisoners often are subjected to repeated vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims.

Vladimiro Roca Antunez, a member of the Internal Dissidents Working Group, remains in prison, and was moved from solitary confinement in early July to a section of the prison for common prisoners. Prison officials denied Roca prison furloughs over weekends, which were granted to the three other members of the group before their release in May (see Section 1.e.).

The authorities took Dr. Oscar Elias Biscet to a prison in Holguin, located about 450 miles from Havana where his family lives, immediately following his 1-day trial in February. On June 7, Biscet was placed in a "punishment cell" and could not receive visitors nor receive food, clothes, or publications. He was not allowed to take any reading materials to the punishment cell, not even the Bible. The authorities allegedly placed Biscet in a punishment cell because he started a 6-hour fast to commemorate the 40 days of fasting that he started on June 7, 1999, in an apartment

on Tamarindo 34 in the 10th of October municipality in Havana. On July 1, Biscet left the punishment cell; however, authorities sent him back to the punishment cell again when he announced his intention to fast on July 13 in honor of the Cubans who died when the 13th of March tugboat sank in 1994. Prison authorities reportedly told Biscet that such actions were disruptive of prison life and could lead to violence. Biscet served 42 days in solitary confinement. In November prison authorities punished Biscet again, this time for protesting inadequate medical attention for 10 common prisoners suffering from diarrhea. Guards allegedly denied him food that his family brought and refused to allow a scheduled family visit. Biscet still was imprisoned at year's end.

From May 24 to June 1, political prisoners Jorge Garcia Perez (Antunez) conducted a hunger strike to protest the lack of medical attention, the arbitrary removal of books and literature, including the Bible, and suspension of family visits. He reportedly received improved treatment from prison officials following the hunger strike.

On August 22, the parents of Jesus Joel Diaz Hernandez reported that he was placed in a punishment cell in the provincial prison of Canaleta in Ciego de Avila. Prison officials did not allow him to have any literature, including the Bible.

Although no longer in solitary confinement in a punishment cell, Francisco Chaviano Gonzalez, who was president of the National Council for Civil Rights in Cuba and who has been imprisoned since 1994 on charges of espionage and disrespect, refuses to see family members until prison officials guarantee that he can receive visits from his family members once a month, in accordance with prison regulations. Presently Chaviano and his wife exchange letters.

The Government does 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 and continues to refuse requests to renew such visits.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective weapons for harassing opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the decision of the Cuban people to build socialism. The authorities routinely invoke this sweeping authority to deny due process to those detained on purported state security grounds.

The authorities routinely engage 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. A survey by the illegal nongovernmental organization (NGO) the Cuban Commission of Human Rights and National Reconciliation reported that the Government sanctioned or processed 368 persons for political motives in 1999. Amnesty International (AI) further recognized the increase of arrests and harassment of dissidents at year's end, particularly around the anniversary of the Universal Declaration of Human Rights, when the authorities arrested approximately 200 persons to prevent them from participating in a celebration of that anniversary. Human rights activists characterized this escalation as the worst in a decade. Elizardo Sanchez Santa Cruz, president of the Cuban Commission of Human Rights and National Reconciliation, said that he especially was disturbed about the new and unlawful methods that the security forces used to harass dissidents, including the use of force when arresting activists.

For example, the police arrested Victor Rolando Arroyo Carmona, an independent journalist, and Pedro Pablo Hernandez Mijares during a birthday party celebration for Noel Ascanio Montero in Guines. The police beat Rolando Arroyo, confiscated his cassette recorder (he is an independent journalist) and \$15. Police subsequently left the two men on the side of a road, far from Guines. The men returned to Guines and went to the local police station to lodge a formal complaint against the police, but instead were again driven away and left on the road more than 20 miles away. On returning to Guines in the early morning, Rolando Arroyo again went to the police station, but police intercepted him and took him to the next municipality of Guanajay.

In December 1999, police detained Jose Aguilar Hernandez and Carlos Oquendo Rodriguez of the July 13 Movement, Diosdado Gonzalez Marrero of the Peace, Love, and Liberty Party, and Marcel Valenzuela Salt of the Brotherly Civic Organization when they attempted to demonstrate during the religious festivities in honor of St. Lazarus, near the small town of El Rincon, near Havana. On June 13, the authorities released the four men.

In December 1999, the authorities arrested Maritza Lugo Fernandez, the vice president of the Democratic November 30 Party and released her only on June 2. Maritza Lugo had been released from jail in August 1999, then was detained various times before her subsequent arrest in December 1999. When Maritza Lugo was released, state security officials told her to prepare the papers for the departure of her family, including her husband, Rafael Ibarra Roque, who still was in jail. However, in December the authorities again arrested Maritza Lugo and detained her until year's end without filing charges against her.

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. The authorities also placed such activists under house arrest for short periods for similar reasons.

On January 13, security personnel impeded a number of human rights activists and independent journalists from attending the trial of independent journalist Victor Rolando Arroyo Carmona. Victor Rolando received a 6-month jail sentence for allegedly hoarding toys. He bought toys to distribute to poor children on January 6. The Government confined Juan Carlos Perez Arencibia, Feliciano Alvarez, and Cecilio Gonzalez to their homes so that they could not attend Arroyo's trial in Pinar del Rio. In 1996 Arroyo Carmona served a 1-year and 9 months' prison term for showing disrespect to authorities.

On January 25, police detained Oswaldo Paya Sardinias, president of the Christian Liberation Movement and Hector Palacios Ruiz, director of the Center for Social Studies. According to Elizardo Sanchez Santa Cruz, the two were detained to prevent a meeting from taking place at Palacios' house regarding "All United," a document that was issued just before the Ninth Ibero-American Summit in November 1999 in Havana. The police also detained a number of other dissidents, including Jose Orlando Gonzalez Bridon, Secretary General of the Confederation of the Democratic Workers Union of Cuba, and an independent journalist; all were released the same afternoon. Police had detained Bridon on January 20 and questioned him about his journalistic activities.

State Security officers detained human rights activists and independent journalists, including Alejandro Chang of the Movement of Fraternal Brothers for Dignity; Nelson Aquilar Ramirez of the Orthodox Party; Maria A. Garcia Delgado of the Movement of 24 February; Carlos Alberto Dominguez of the November 30 Democratic Party; Carlos Rios of Change 2000; Clara Morales Martinez of the July 13 Movement; Angel Polanco, Rafael Peraza, Maria de los Angeles Gonzalez Amaro, and Jose Antonio Fornaris Ramos to make sure they did not attend the 1-day public trial of Dr. Oscar Elias Biscet, Eduardo Diaz Fleitas, and Fermin Scull Zulueta, which took place on February 25 in Havana. In addition, the authorities told many dissidents and independent journalists not to attend. The authorities ordered prominent dissident Jesus Yanez Pelletier not to leave his house, and placed guards outside to ensure compliance. Others who were ordered to stay in their homes were Maria Esther Suarez Valdes of the Confederation of Democratic Workers Union of Cuba; Ileana Gonzalez of the Democratic Party November 30; Ruben Camalleri of the Movement of February 24; Carlos Raul Jimenez Carrero of Nationalist Agenda; and Odilia Collazo Valdes of the Pro-Human Rights Party of Cuba. The authorities placed independent journalists Omar Rodriguez Saludes and Jorge Olivera Castillo under 1-day house arrest.

On May 24, security police detained four human rights activists who were on their way to deliver a letter requesting better prison conditions for political prisoners to prison authorities in Vedado, Havana. The letter also protested Dr. Biscet's incarceration 450 miles away from his family. Police detained Armando Dominguez and Iosvani Aquilar Camejo of the Movement of Fraternal Brothers for Dignity, and Alejandro Chang Cantillo and Marlon Cabrera of the Brotherly Civic Movement. On October 23, the police released Marlon Cabrera Rivero and Alejandro Chang Cantillo; they released Armando Dominguez Gonzalez on October 20 and Iosvani Aquilar Camejo on October 30. The authorities also fined Aguilar Camejo about \$30 (600 pesos) for disturbing the peace in the prison.

On June 29, the police arrested Rafael Iturralde Bello, president of the Libertad independent agricultural cooperative in Santiago de Cuba, outside a bus station in Pinar del Rio. They arrested Iturralde before he could meet with other members of the National Association of Independent Farmers of Cuba in Pinar del Rio. They released Iturralde 24 hours later and placed him on a bus to Santiago de Cuba.

As in previous years, on July 13, police prevented activists from commemorating in any way the 1994 incident in which 41 persons drowned when the Border Guard sank the 13th of March tugboat (see Section 1.a.). Beginning on July 12, police detained activists in a number of provinces, and ordered others to remain in their homes on July 13. The authorities told dissidents that if they did not obey they

would be prosecuted for illegal assembly and distribution of enemy propaganda, or for incitement to rebellion. In Santiago de Cuba, more than 80 state security agents reportedly attacked about 30 dissidents who had thrown bouquets of flowers into the ocean in honor of those who died in 1994. State Security agents allegedly also beat women in the group. Security agents accused the dissidents of being thieves and delinquents (see Section 2.b.).

On July 21, the authorities also prevented activists in Santiago de Cuba, including independent journalist Luis Alberto Rivera and Fidel Soria Torres and Ivette Rodriguez Manzanares of the MSC, from attending the trial of Nestor Rodriguez Lobaina and Eddy Alfredo Mena Gonzalez of the Movement of Cuban Youth for Democracy. The two men were charged with disrespect, causing damages, and causing public disorder. On August 15, the court gave Rodriguez a 6-year prison sentence and sentenced Mena to 5 years in prison (see Section 1.e.).

On September 8, security police ordered a number of human rights activists not to attend the annual procession in honor of the Virgin of Charity (see Section 2.c.).

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 threaten prosecution under this article. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR have criticized this concept 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 Criminal Code amounts to a subjective criterion used by the Government to justify violations of the rights to individual freedom and due process of persons whose sole crime has been an inclination to hold a view different from the official view.

On August 8, police summoned Manuel Lantigua Dominguez, a member of the dissident Council of Cuban Workers (CUTC) in the province of Guantanamo, to the local police office. After taking his photograph and fingerprints, the police told Lantigua that a case on charges of dangerousness would be opened against him.

The Government also used exile as a tool for controlling and eliminating the internal opposition. AI has noted that the Government detains human rights activists repeatedly for short periods and threatens them with imprisonment unless they gave up their activities or left the country. The Government used these incremental aggressive tactics to compel Ruben Ruiz Armenteros, vice president of the Human Rights Party of Cuba, to leave the country on September 28. On October 26, Orestes Rodriguez Horruintiner, president of the MSC, also left the country. Rodriguez had been imprisoned from July 1997 to April 7.

The Government also has pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. HRW observed that the Government routinely invokes forced exile as a condition for prisoner releases and also pressures activists to leave the country to escape future prosecution.

AI has 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, which is headed by Fidel Castro. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of the society and the State further compromises the judiciary's independence. The courts undermine 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.

Civil courts exist at municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges preside over them. Military tribunals assume jurisdiction for certain counterrevolutionary cases.

The law and trial practices do not meet international standards for fair public trials. Almost all cases are tried in less than a day; there are no jury trials. While most trials are public, trials are closed when there are 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 death penalty cases are automatic. The death penalty ultimately must be affirmed by the Council of State.

Criteria for presenting evidence, especially in cases of human rights advocates, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. The authorities regularly deny defendants access to their lawyers until the day of the trial. Several dissidents who have served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf. AI concluded in 1996 that "trials in all cases fall far short of international standards for a fair trial."

The law provides the accused with the right to an attorney, but the control that the Government exerts over the livelihood of members of the state-controlled lawyers' collectives—especially when they defend persons accused of state security crimes—compromises their ability to represent clients. Attorneys have reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

In January a Havana court reaffirmed the 4-year prison term for dangerousness imposed in 1998 on Lazaro Constantin Duran, leader of the Friends Club of an independent teachers' organization. On January 18, a court sentenced independent journalist Jesus Joel Diaz Hernandez to 4 years imprisonment for dangerousness (see Section 2.a.).

On February 25, diplomats and members of the international press attended the 1-day trial of Dr. Oscar Elias Biscet, president of the Lawton Foundation for Human Rights. Biscet was convicted of disrespect, creating a public disturbance by hanging a Cuban flag upside down during a press conference in his home, and encouraging others to violate the law. In his opening statement, Biscet denied all charges against him, and insisted that he was a nonviolent activist for human rights. The three judge panel heard six witnesses and listened to the opening and closing arguments of both the prosecutor and defense attorney. The court sentenced Biscet to 3 years in prison (less than the 7 years the prosecution sought). The same court sentenced Fermin Scull Zulueta to 1 year in prison, and released Eduardo Diaz Fleitas. The latter two men were charged with insulting national symbols, creating a public disturbance, and instigating a crime. The authorities transferred Biscet to the Cuba Si prison in Holguin (see Section 1.c.). The authorities detained and prevented human rights activists and independent journalists from attending the trial (see Section 1.d.).

On July 13, prison authorities accused Egberto Angel Escobedo Morales, serving a 24-year sentence for the crimes of espionage, propagating enemy propaganda, and theft of the additional crimes of disrespect and causing disturbances in a penitentiary. The prosecution requested an additional 20-year sentence.

On July 21, in Santiago de Cuba, Nestor Rodriguez Lobaina and Eddy Alfredo Mena Gonzalez of the Movement of Cuban Youth for Democracy went on trial for disrespect, causing damages, and causing public disorder. On August 15, Rodriguez received a 6-year prison sentence, while Mena was sentenced to 5 years in prison.

During the year, three of the four members of the Internal Dissident Working Group received conditional release from prison—Felix Antonio Bonne Carcasses, on May 12; Martha Beatriz Roque Cabello, on May 15; and Rene de Jesus Gomez Manzano, on May 23. Police arrested the four persons in July 1997 for expressing peacefully their disagreement with the Government. In September 1998, they were charged with acts against the security of the state in relation to the crime of sedition. Despite the prosecution's demand for sentences from 5 to 6 years, Felix Bonne and Rene Gomez received a 4-year jail sentence while Martha received a 3-1/2 year sentence. The fourth member of the group, Vladimiro Roca Antunez, received a 5-year sentence. In early July, Roca was moved from solitary confinement to a section of the prison for common prisoners; he remained in prison at year's end.

Human rights monitoring groups inside the country estimate the number of political prisoners at between 300 and 400 persons. On July 16, the Cuban Commission on Human Rights and National Reconciliation reported that 314 persons were in prison for political reasons. The authorities have imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing Fidel Castro), clandestine printing, or the broad charge of rebellion, which is often brought against advocates of peaceful democratic change.

*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 CDR's, remains one of the most pervasive and repressive features of daily life. The State has assumed the right to interfere

in the lives of citizens, even those who do not actively oppose the Government and its practices. The mass organizations' ostensible purpose is to improve the citizenry, but in fact their goal is to discover and discourage nonconformity. Citizen participation in these mass organizations has declined; the economic crisis both has reduced the Government's ability to provide material incentives for their participation and has forced many persons to engage in black market activities, which the mass organizations are supposed to report to the authorities.

The authorities utilize a wide range of social controls.

The Interior Ministry employs an intricate system of informants and block committees (the CDR's) to monitor and control public opinion. While less capable than in the past, CDR's continue 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 controls all access to the Internet, and all electronic mail messages are subject to censorship. The Department of State Security often reads international correspondence and monitors overseas telephone calls and conversations with foreigners. The Government also monitors domestic phone calls and correspondence.

In January the authorities dismissed Teidy Betancourt Gonzalez from her job as an assistant teacher in a kindergarten because her husband, Ruben Perez Pons, a member of the Democratic Action group in Sancti Spiritus, is a dissident. On April 29, the authorities expelled from his workplace Jose Carlos Malina Gonzalez, conditionally released from jail, because he refused to participate in a government-sponsored public event for the return of Elian Gonzalez Brotons. The administrator of Molina's workplace threatened to inform the police so that he could be returned to prison.

In August Romilio de Jesus Garcia Mauri, member of the Club of Prisoners and Former Political Prisoners, was convoked three times to appear at the local police station in Santiago de Cuba for possible drug trafficking. Every time Mauri arrived at the police station, he was asked to submit a writing test for examination. On August 10, police detained Yuri Tier Pineiro on the La Victoria beach in the province of Sancti Spiritus and interrogated him for 3 days about the political activities of his father, Marcelo Tier Perez, and his older brother Marcelo Tier Pineiro, members of the Democratic Solidarity Party. He himself is not a political activist.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana (see Section 5).

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

*a. Freedom of Speech and Press.*—The Government does not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials carry penalties of between 3 months and 1 year in prison. If President Castro or members of the National Assembly or Council of State are the objects of criticism, the sentence can be extended to 3 years. Charges of disseminating enemy propaganda (which includes merely expressing opinions at odds with those of the Government) can 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 constitute enemy propaganda. Local CDR's inhibit 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 cannot become in any case private property. The Communist Party controls all media—except a few small church-run publications. Even the church-run publications, denied access to mass printing equipment, are subject to governmental pressure. In particular, the Government publicly criticized the publisher of the magazine Vitral, a publication of the diocese of Pinar del Rio, twice during the year; President Castro had criticized publicly an article that the magazine printed in 1999. The Government reported extensively on Vitral articles and on the publisher's activities and contacts, which it labeled as counterrevolutionary. As of October, Vitral had not been shut down, but as of year's end, the Church was still being subjected to considerable pressure to avoid political topics.

The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. Citizens do not have the right to receive publications from abroad, although newsstands in hotels for foreigners and certain hard currency stores sell foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts generally overcame the jamming attempts on short-wave bands, but its me-

dium-wave transmissions are blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All media must operate under party guidelines and reflect government views. The Government attempts to shape media coverage to such a degree that it not only continued to exert pressure on domestic journalists but also kept up a steady barrage of pressure on groups normally outside the official realm of control, such as visiting international correspondents. Fidel Castro continued to criticize publicly the international press, often by name.

Resident foreign correspondents reported that the very high-level of government pressure experienced in 1999, including official and informal complaints about articles, threatening phone calls, and lack of access to officials, continued throughout the year. The Government strengthened its ability to control the foreign press by ceasing to issue multiple entry visas to journalists from foreign press organizations who reside in Havana. Such journalists are now required to apply for a new visa each time they leave the country.

In August Radio Moron, a small government-run radio station in the central part of the country, dismissed the host of one of its programs after he read on the air a poem by Raul Rivero (founder and director of the Cuba Press news agency).

The 1999 Law to Protect National Independence and the Economy outlaws a broad range of activities as undermining state security, and toughens penalties for criminal activity. Under the law, anyone caught possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, is subject to fines and to prison terms of 7 to 20 years. While many activities between Cuban nationals and foreigners possibly could fall within the purview of this new law, it appears to be aimed primarily at independent journalists.

This law increased the penalties and broadened the definitions of activities covered by the 1996 Cuban Dignity and Sovereignty Act, which already proscribed citizens from providing information to any representatives of the U.S. Government, or seeking any information from them, that might be used directly or indirectly in the application of U.S. legislation against the Government. This includes accepting or distributing Publications, documents or other material from any origin, which the authorities might interpret as facilitating implementation of such legislation.

The Government continued to threaten independent journalists, either anonymously or openly, with arrest and conviction based on the new law. Some journalists have been threatened repeatedly since the law took effect. Independent journalists noted that the law's very existence had some effect on their activities and increased self censorship, and some noted that it is the Government's most effective tool to harass members of the independent press.

In February 1999, National Assembly President Ricardo Alarcon told foreign correspondents that under the new law, even reporters working for accredited foreign media could be sentenced to up to 20 years in prison if the information they publish is deemed to serve U.S. interests.

The Government continues 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. More than 20 independent journalists experienced varying degrees of harassment, and certain individuals appear to have been singled out. Since January dozens of reporters were repeatedly detained, some for several days. 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.

Family members have lost their jobs because they refuse to condemn or inform on these so-called counterrevolutionaries (see Section 1.f.). Acts of intimidation have been reported less frequently since 1999. However, police have tried more often to prevent independent journalists from covering so-called sensitive events.

In January an unidentified assailant attacked Mary Miranda, of Cuba Press, and beat her unconscious.

In February police briefly detained Edel Garcia, Director of the Centro Norte del Pais agency, as he left church after attending a memorial Mass for the Brothers to the Rescue pilots who were aboard planes that the air force shot down in 1996. Police frequently stop Garcia on fabricated traffic violations. Garcia's wife receives weekly death threats and his teenage daughters are harassed with increasing frequency. Garcia has a criminal trial pending, but the date and the charges are as yet not known. Charges that have been mentioned include: insulting the President,

illicit association, collaboration with the enemy, spreading false news, and espionage.

In February security officials ordered several journalists to remain home and not to attend the trial of a member of the opposition. Jose Antonio Fornaris, of Agencia Cuba Verdad, refused to stay home; the police detained him at the local jail for the entire day.

In March the University of Havana expelled the daughter of Maria de los Angeles Gonzalez Amaro, Director of the Union de Periodistas y Escritores Cubanos Independientes, after a university dean warned her not to follow in her mother's footsteps. In September on two occasions, security officials intimidated Mrs. Gonzalez in her home.

In April the Government's Juventud Rebelde newspaper accused Raul Rivero, Tania Quintero, Manuel David Orrio, Lucas Garve, and Vicente Escobal of being counterrevolutionary leaders.

In May the authorities went to the home of Manuel Vasquez Portal, Director of Agencia Decoro, who was scheduled to speak that day on "Globalization and Culture" at the Centro de Estudios Sociales. Two officials from State Security threatened Vasquez with detention if he give his speech. State Security officials also visited 17 other persons and told them not to attend the speech.

In July the authorities confiscated equipment (video cameras, camera, and cassette recorders) and all office supplies from the Agencia Yara in Bayamo.

In August police detained Ricardo Arabi Jimenez, director of Agencia Yara, for attending a meeting about organizing the first congress of independent trade unions by the CUTC, scheduled to be held in October (see Section 6.a.).

In September Dorca Cespedes, Havana Press reporter, was told by the director of her daughter's day care center, that the toddler could no longer attend. The authorities had instructed the director not to care for the child due to the mother's counterrevolutionary activities.

In September the security police took octogenarian Nestor Baguer, independent journalist and founder of the original Independent Press Agency of Cuba, to a private home in Havana where he was questioned about his activities. The authorities also made calls to contacts of Baguer to invite them to a meeting at his home. The authorities then went to Baguer's home to inform him that they knew about the alleged meeting.

In September individuals posing as vandals, but thought to be security officials, threw rocks at the home of Juan Tellez, Agencia Libertad.

In September the authorities jailed Joaquin Cabeza de Leon in Camaguey because he helped to organize a literary award ceremony.

In September police arrested brothers Jesus and Jadir Hernandez Hernandez, of Havana-Press, in Guines, and charged them with illegal trafficking in persons and collaboration with a foreign diplomatic mission. For several weeks, both men had been disseminating information about the unification of several dissident groups in Havana Province. In October authorities again threatened the brothers and their family members.

In October a security official showed a photograph to Dr. Jose Luis Garcia, Agencia Libertad, in which Garcia was conversing with a man that he had just casually met. Garcia was told that the man was a member of state security and that the photograph would be shown to other members of the opposition to make it look like Garcia was actually collaborating with state security.

In October the police detained Jesus Alvarez Castillo and Pedro Duque, Cuba Press correspondents from Ciego de Avila, in front of the office of Cuba Press and accused them of involvement in a murder. The authorities later dismissed the accusation as a case of mistaken identity.

The authorities often confiscate equipment when arresting journalists, especially photographic and recording equipment. It is now possible to buy a fax machine or computer, payable in dollars; if a receipt can be produced, this equipment is usually not confiscated. Photocopiers and printers are impossible to find on the local market, which makes them a particularly valuable commodity for journalists. A fax machine that a friend brought from overseas for journalist Reinaldo Cosano Alen, arrived damaged and was not usable after 10 days in Customs. Equipment lost due to burglary also has been reported. In January unidentified persons entered the home of journalist Juan Gonzalez Febles and stole his tape recorder, recorded tapes, and several articles. In August a couple posing as employees of Cuba Press stole all the documents, books, and office materials collected by the agency after the owner of the premises had asked the agency to move due to pressure from the police.

Outside the capital of Havana, independent journalists reported that detentions, threats, and harassment are more severe than in the capital.

AI, HRW, the IAPA, Reporters Sans Frontieres (RSF), and the Committee to Protect Journalists repeatedly called international attention to the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech (see Section 1.d.).

In June the IAPA called on the Government to provide medical treatment to two independent journalists serving prison sentences. Joel de Jesus Diaz, in prison in Ciego de Avila, was suffering from hepatitis and Manuel Antonio Gonzalez Castellanos in Holguin was suffering from severe influenza and possibly tuberculosis. The IAPA also called for the release of independent journalists Victor Rolando Arroyo and Bernardo Arevalo Pardon, both of whom are serving prison sentences (see Section 1.c.).

In July police detained Ricardo Gonzalez, RSF correspondent, for 6 hours as they tried to coerce him to collaborate with them. In August French journalist Martine Jacot, sent by RSF to the country, was in contact with a dozen independent journalists in Havana and Ciego de Avila. She also met with the families of two of the three journalists currently in prison. On August 17, just before she was to leave the country, security police arrested her, questioned her at the Havana airport, and seized a video camera, two videotapes, and documents. The police never returned this equipment to RSF.

In August the authorities detained three Swedish journalists and later expelled them from the country. The journalists had met with independent journalists and had organized a seminar for two groups of independent journalists. The authorities said that the journalists, including Martine Jacot, violated immigration laws by traveling on tourist visas, instead of traveling on visas issued to journalists.

Distribution of information continues to be controlled tightly. Importation of foreign literature is controlled, and the public has no access to foreign magazines or newspapers. Leading members of the Government have indicated that citizens do not read foreign newspapers and magazines to obtain news because they do not speak English and they have access to the daily televised round tables on issues with which they need to concern themselves. Access to computers is limited. E-mail use is growing slowly as the Government incrementally allows access to more users; however, the Government generally controls its use, and only very few persons or groups have access. The Government opened a national gateway to some journalists, artists, and municipal-level youth community centers, but the authorities still restrict the types and numbers of international sites that can be accessed.

Independent journalist Reinaldo Cosano Alen received a letter from Customs informing him that two magazines were confiscated for being counterrevolutionary. Customs also confiscated several editions of the *Cartas de Cuba* magazine that were addressed to independent journalist Tania Quintero Antunez.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications deal exclusively with conditions in a mission's home country and prior Government approval is received. Many missions do not accept this requirement and send materials out liberally; however, the Government's threats to expel embassy officers who provide published materials had a chilling effect on some missions.

The Government restricts literary and academic freedoms and continued to emphasize the importance of reinforcing revolutionary ideology and discipline over any freedom of expression. The educational system teaches that the State's interests have precedence over all other commitments. Academics and other government officials are prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education requires teachers to evaluate students' and their parents' ideological character, and note such evaluations in school record that students carry throughout their schooling. These reports directly affect the students' educational and career prospects. As a matter of policy, the Government demands that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents include denying them advanced education and professional opportunities. Fidel Castro has stated publicly that the universities are available only to those who share his revolutionary beliefs.

Artistic expression is less restricted. The Government encourages the cultural community to attain the highest international standards in order to sell its work overseas for hard currency. However, the Government began implementing a program in the fall called "Broadening of Culture" that ties art, socialism, and modern "revolutionary" ideology and legends into its own vision of culture. The Government uses the government media and the schools to impose this vision on the public, particularly the youth.

*b. Freedom of Peaceful Assembly and Association.*—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be “exercised against the existence and objectives of the Socialist State.” The law punishes any unauthorized assembly of more than three persons, including those for private religious services in a private home, by up to 3 months in prison and a fine. The authorities selectively enforce this prohibition and often use 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. For the third consecutive year, it permitted a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana on September 8. The Government also authorized other denominations to hold a few public events in late November. However, the Government continued routinely and arbitrarily to deny requests for other processions and events. Just before Holy Week, the Government informed Catholic Church officials that no processions would be allowed. When the Church made this information public, state officials changed their position and decided that churches that had requested permission for a procession could proceed.

The authorities have never approved a public meeting by a human rights group. On February 22, state security officers detained prodemocracy activists in different parts of the country to prevent them from staging activities commemorating the February 24, 1996, shutdown of two civilian aircraft over international airspace by the air force. Security agents also warned many more activists against staging any public demonstrations on February 24, and warned independent journalists not to cover such incidents.

In early August, security agents detained in Havana leaders of the Council of Cuban Workers from various provinces to ensure that members could not hold a preparatory meeting for the CUTC’s first congress. Although scheduled to take place in October, it never was held. On October 13, state security arrested Pedro Pablo Alvarez Ramos, the Secretary General of the CUTC, as he was about to conduct a press conference. At year’s end, he remained in jail without being charged.

On August 15, state security informed a number of activists not to gather in the cemetery in Havana in honor of Eduardo Chibas, a well-known politician of the 1940’s and early 1950’s.

A march from the Church of the Sacred Heart of Jesus to the Church of La Merced and which was organized by dissidents for the release of political prisoners on September 17 did not take place because of police intimidation and detentions.

On September 25, police again prevented a number of activists from marching from the Church of the Sacred Heart of Jesus to the Church of Mercedes. Police took the activists to a police station to review their identification documents.

On November 2, the Day of the Dead, state security personnel prevented activists from entering the chapel in Havana’s Colon Cemetery where a number of human rights activists are buried.

On November 10, police in Santiago de Cuba prevented activists from marching from the Plaza de Marte in honor of the first anniversary of the attempt to demonstrate in Dolores Park in Havana.

During the year the Government organized a number of marches and rallies in front of diplomatic missions. The Government mobilizes thousand of persons in these marches, including school children and workers. Anyone who does not attend the event can be easily identified since persons congregate at certain points from factories or schools. Sometimes small identification papers are given to participants; they must present these papers to their immediate supervisor or school officials the next day to demonstrate that they attended the rally.

The Government generally denies citizens 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 have never approved the existence of a human rights group. However, there are a number of professional associations that operate as NGO’s but without legal recognition. For example, some scientists formed the Zoological Society, and some teachers established an Association of Independent Teachers.

Along with recognized churches, the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations are 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 have been established in the country for more than a century, the authorities continue to ignore those groups’ applications for

legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized nongovernmental groups are at least nominally affiliated 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 continues to restrict freedom of religion.

In 1991 the Government allowed religious adherents to join the Communist Party. In 1992 it amended the Constitution to prohibit religious discrimination and removed references to “scientific materialism,” i.e., atheism, as the basis for the State. Members of the armed forces do not attend religious services in their 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 refuses to recognize new denominations. The Government prohibits, with occasional exceptions, 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 Cuban Council of Churches (CCC) officials, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition CCC Pentecostal members have 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 has formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

The Government’s main interaction with religious denominations is through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engages in active efforts to control and monitor the country’s religious institutions, including surveillance, infiltration, and harassment of religious professionals and laypersons.

In 1998 following Pope John Paul II’s January visit, the country’s Roman Catholic bishops called on the Government to recognize the Church’s role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, and the scientific and technical worlds. The Government continued to limit the Church’s access to the media and refused to allow the Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools. Nonetheless, in September local government authorities, for the third time since 1961, allowed the Catholic Church to hold an outdoor procession to mark the feast day of Our Lady of Charity in Havana. Although visibly present, state security personnel did not harass any participants or observers, as they did in 1998. However, prior to the event, security police ordered a number of human rights activists not to attend the procession. On December 25, 1999, the Government permitted the Catholic Church to hold a Christmas procession in Havana. Catholic Church authorities received permission to conduct the closing ceremonies for the jubilee year celebration and the Cuba Eucharistic Congress (the last one took place in 1959) on December 9 and 10. On December 9, 1,500 children from all over the country received their first communion in the square outside the San Carlos Seminary. On December 10 Cardinal Jaime Lucas Ortega Alamino, carrying the eucharist, led a procession of bishops, priests, and believers from the Church of Christ (Iglesia del Cristo del Buen Viaje) to the San Carlos Seminary. Unlike 1999, there was no broadcast of the Pope’s annual Christmas Day message from the Vatican, but it was mentioned in the evening television news.

In 1998 the Government announced in a Politburo declaration that henceforth citizens would be allowed to celebrate Christmas as an official holiday. (The holiday had been cancelled, ostensibly to spur the sugar harvest, in 1969, and restored in 1997 as part of the preparations for the Pope’s 1998 visit.) However, despite the Government’s decision to allow citizens to celebrate Christmas as a national holiday, it also maintained a December 1995 decree prohibiting nativity scenes in public buildings.

The Government allowed two new foreign priests to enter the country during the year and two to replace two priests whose visas were not renewed during the year. Some visas were issued only for periods from 3 to 6 months, and the applications of many other priests and religious workers remain pending.

The Government continued to enforce a resolution that prevented 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.

On July 9, dissidents attended the Jubilee Mass for prisoners celebrated by Cardinal Jaime Ortega Alamino at the Church of Our Lady of Charity. The Church distributed leaflets that invited worshippers to attend the Mass and to pray for prisoners and requested former prisoners and prisoners on conditional release to attend. Recently released members of the Internal Dissident Working Group, Martha Beatriz Roque Cabello, Rene de Jesus Gomez Manzano, and Felix Antonio Bonne Carcasses also attended. During the ceremony a white dove was released from its cage, and the congregation spontaneously started to clap and some persons shouted "liberty, liberty." State security officials outside the church did not intervene. The Church normally uses lay members to provide security at events like these. Apart from ensuring that people remain in their places or in the procession line during the service, these church guards also prevent any activities from taking place that could lead to a response from state security officials such as occurred at the July 9 Mass.

On August 30, the independent press agency Grupo Decoro reported that evangelical pastor Pablo Rodriguez Oropeza and his wife Enma Cabrera Cabrera were evicted from the house where they had lived for 6 years. The press agency did not report the reason for the eviction. Santos Osmany Dominguez Borjas, a bishop of the United Pentecostal Church of Cuba (Apostolic), returned to Havana after he was expelled to Holguin on October 8, 1999. In recent years, the Government has relaxed restrictions on some religious denominations, including Seventh-Day Adventists and Jehovah's Witnesses. The CCC continues to broadcast a monthly 15-minute program on a national classical music radio station, under the condition that the program not include material of a political character.

State security officials visited some priests and pastors, prior to significant religious events, ostensibly to warn them about dissidents; however, some critics claim that these visits are done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed, including inside churches and during religious ceremonies, human rights advocates who sought to attend religious services commemorating special feast days or before significant national days.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government tightly restricted freedom of movement. The Government generally has not imposed legal restrictions on domestic travel, except for persons found to be HIV-positive, whom it initially restricts to sanatoriums for treatment and therapy before conditionally releasing them into the community. However, in recent years state security officials have forbidden human rights advocates and independent journalists from traveling outside their home provinces, and the Government also has sentenced others to internal exile. On December 12, a court sentenced Angel Moya Acosta to 1 year in prison and banned him from traveling to Havana from his home province of Matanzas for 10 years after serving his prison term.

In 1997 the Council of Ministers approved Decree 217, aimed at stemming the flow of migration from the provinces to the capital. Persons from other provinces may travel and visit Havana; however, they cannot move into the city, on the grounds that if internal migration is left unchecked, the city's problems regarding housing, public transport, water and electrical supplies will become worse. The Government recently noted that since the decree went into effect, 17,000 fewer people have migrated to Havana. Police frequently check the identification of persons on the streets, and if someone is found from another province living in Havana illegally, they are fined \$15 (300 pesos) and sent back home. Fines are higher \$50 (1,000 pesos) for those who are residing illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it was targeted at individuals and families, who are predominantly of African descent, from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. In June the Government denied an exit permit to Pedro Pablo Alvarez Ramos, secretary-general of the CUTC to attend a labor conference in the United States organized by the AFL-CIO. No explanation was given. Elizardo Sanchez Santa Cruz, president of the Cuban Commission for Human Rights and National Reconciliation also was not allowed to leave the country. Mexico's Partido Accion Nacional (PAN) had invited Sanchez to witness the Mexican presidential election on July 2. The PAN also invited members of the Moderate Reflection Group, but Osvaldo Alfonso Valdes, president of the Democratic Liberal Party and a member of the Moderate Reflection Group, said that the group decided not to apply for an exit permit because of lack of funds to pay for the application fees for exit permits. PAN also issued an invitation to Elizardo Sanchez to attend the inauguration of the new President on December 1. According to Sanchez, even though PAN officials re-

quested an exit visa for him directly from the Government, he never received it. Similarly, the authorities denied an exit visa to Osvaldo Alfonso Valdes, president of the Liberal Party, who was invited to attend the International Liberal Party's convention that took place in Canada in October.

The Government did issue an exit permit to Manuel Costa Morua of the Socialist Movement to travel to Europe in April; Costa Morua also is a member of the Moderate Reflection Group.

The Government allows the majority of persons who qualify for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delay or deny exit permits, usually without explanation. Some denials involve professionals who have tried to emigrate and whom the Government subsequently banned from working in their occupational field. The Government refused permission to others because it considers their cases sensitive for political or state security reasons. In July 1999, the Ministry of Health issued an internal regulation, known as Resolution 54, that provides for the denial of 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. This regulation was not published as part of the legal provisions, and may apply to other professionals as well.

The Government also routinely denies exit permits to young men approaching the age of military service, and until they reach the age of 27, even when it has authorized the rest of the family to leave. However, in most of those cases approved for migration to the United States under the September 1, 1994, U.S.-Cuban migration agreement, the applicants eventually receive exemption from obligatory service and are granted exit permits.

In September two independent journalists, Jesus Labrador, Cuba Press reporter, and Gustavo Cardero, (NotiCuba reporter) planned to leave the country as refugees until the authorities confiscated their exit permit.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (e.g., merchant seamen who have defected while overseas, and sports figures who have defected while on tour abroad).

Migrants who travel to the United States must pay the Government a total of about \$500 per adult and \$400 per child, plus airfare. These government fees for medical exam, passport, and exit visa—which must be paid in dollars—are equivalent to about 5 years of a professional person's accumulated peso salary and represent a significant hardship, particularly for political refugees who usually are marginalized and have no income. In 1996 the Government agreed to allow 1,000 needy refugees to leave each year with reduced exit fees. However, after the first group of 1,000 in 1996, no further refugees have been accorded reduced fees. At year's end, 85 approved refugees remained in the country because they were unable to pay government exit fees for themselves and their families.

The Penal Code provides for imprisonment from 1 to 3 years or a fine of \$15 to \$50 dollars (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) has stated that it regards any sentence of over 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 2, 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally.

In 1994 the Government eased restrictions on visits by, and repatriation of, Cuban emigrants. Citizens who establish residency abroad and who are in possession of government-issued permits to reside abroad may travel to the country without visas. The Government reduced the age of persons eligible to travel abroad from 20 to 18 years and extended the period for a temporary stay abroad from 6 to 11 months. In 1995 the Government announced that emigrants who are considered not to have engaged in so-called hostile actions against the Government and who are not subject to criminal proceedings in their country of residence may 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 remains unclear whether the Government actually was implementing such a policy.

The Constitution provides for the granting of asylum to individuals persecuted "for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace." However, the Government has no formal mechanism to process asylum for foreign nationals.

Nonetheless, the Government honors the principle of first asylum and has provided it to a small number of persons. There was no information available on its use during the year. According to the UNHCR, since January the authorities received 75 applications for refugee status within the country. Of the 75 applicants, 24 persons were recognized as refugees. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens do not have the legal right to change their Government or to advocate change, and the Government retaliates systematically against those who seek peaceful political change. The Constitution proscribes any political organization other than the Communist Party. While the Constitution provides for direct election of provincial, municipal, and National Assembly members, the candidates 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, selects the members of the highest policy-making bodies of the Communist Party—the Politburo and the Central Committee.

The authorities tightly control the selection of candidates and all elections for government and party positions. The candidacy committees are composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDR's and are responsible for selecting candidates, whose names are then sent to municipal assemblies that select a single candidate for each regional seat in the ANPP. An opposition or independent candidate has never been allowed to run for national office.

In January 1998, the Government held national elections in which 601 candidates were approved to compete for the 601 seats in the National Assembly. According to the official state media, the candidates were voted in by over 93 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party organs, 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.

On April 23, elections for local representatives to the municipal assembly were held. Government newspapers reported that 98 percent of voters participated in the election. Slightly more than 50 percent of those elected were the incumbents, 20 percent were women, and about 9 percent of all candidates were between the ages of 16 and 30. The reports also claim that nationwide the number of blank ballots decreased from 3.2 percent to 2.8 percent, while the number of annulled votes also decreased to 3 percent from nearly 4 percent, compared with the last election. Municipal elections are held every 2-1/2 years to elect 14,686 local representatives to the municipal assemblies. Deputies to the National Assembly, delegates to the provincial assemblies, and members of the council of state are elected during general elections held every 5 years. The municipal assemblies constitute the lowest level of the Government's structure.

Although not a formal requirement, Communist Party membership is in fact a prerequisite for high-level official positions and professional advancement.

The Government rejects any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. Although President Castro signed the Declaration of Vina del Mar at the Sixth Ibero-American Summit in 1996, in which government leaders reaffirmed their commitment to democracy and political pluralism, the Government continued to oppose independent political activity on the ground that the national system provides a "perfected" form of democracy and that pluralism exists within the one-party structure.

Government leadership positions continue to be dominated by men, and women remain underrepresented. There are very few women or minorities in policymaking positions in the Government or the Party. There are 2 women in the 24-member Politburo, 18 in the 150-member Central Committee, and 166 in the 601-seat ANPP. Although blacks and persons of African descent make up over half the population, they hold only six seats in the Politburo.

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

The Government does not recognize any domestic human rights groups, or permit them to function legally. The Government subjects domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refuses to consider applications for legal recognition submitted by human rights monitoring groups (see Section 2.b.).

Dissidents generally believe that most human rights organizations have been infiltrated and are subjected to constant surveillance. Activists believe that some, perhaps many, of the dissidents are either state security or are persons attempting to qualify for refugee status to leave the country.

In its 1997 report, the IACHR examined measures taken by the Government and found that they did not "comprise the bedrock of a substantive reform in the present political system that would permit the ideological and partisan pluralism implicit in the wellspring from which a democratic system of government develops." The IACHR recommended that the Government provide reasonable safeguards to prevent violations of human rights, unconditionally release political prisoners and those jailed for trying to leave the country, abolish the concept of dangerousness in the Penal Code, eliminate other legal restriction on basic freedoms, cease harassing human rights groups, and establish a separation of powers so that the judiciary would no longer be subordinate to political power.

The Government steadfastly has rejected international human rights monitoring. In 1992 the country's U.N. representative stated that Cuba would not recognize the mandate of the U.N. Commission on Human Rights (UNCHR) on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged and the Government refused even to acknowledge requests by the Special Rapporteur to visit the country. In April 1998, the UNCHR did not renew the mandate of the Special Rapporteur, following as yet unfulfilled assertions by the Government that it would improve human rights practices if it was not under formal sanction from the UNCHR. As in 1999, the UNCHR again passed a resolution on April 18, introduced by the Czech Republic and Poland, which expressed concern about the human rights situation in the country. The Government responded by organizing a march of an estimated 200,000 persons past the Czech Embassy in Havana. On April 19, national television featured a round-table discussion on the UNCHR vote in which the Foreign Minister strongly criticized the UNCHR resolution and accused it of discriminating against third world countries.

During this same UNCHR session, the U.N. Special Rapporteur on Violence Against Women released her report, which was critical of the Government on issues of women's rights and on other human rights problems.

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

Cuba is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin, although evidence suggests that racial discrimination occurs frequently.

*Women.*—Violent crime rarely is reported in the press, and there are no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates report that violence against women is a problem. The law establishes strict penalties for rape, and the Government appears to enforce the rape law; however, according to human rights advocates, the police do not act on cases of domestic violence.

Radhika Coomaraswamy, the U.N. Special Rapporteur on violence against women, visited the country in 1999 and issued a report on her findings in February. The report states that she was surprised to find that most government officials did not see violence against women as a prevalent problem. However, she noted that activists at the grassroots level are very attuned to problems of violence affecting women. Coomaraswamy urged the Government to take comprehensive steps to enhance the legal protection against violence against women and specifically urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal (except for prostitution by children under 17 years of age); however, pandering or otherwise benefiting from prostitution is a felony. Prostitution has increased greatly in the last few years; press reports indicate that tourists from various countries visit specifically to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as "jineteras") were still visible in Havana and other major cities during the year. The early success was obtained by stationing police on nearly every major street corner where tourists are present. Some street police officers are suspected of providing protection to the jineteras. Most observers believe that the

Government clamped down on prostitution to combat the perception that the Government promotes sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them; the newest center reportedly opened in September in Valle Grande near Havana. In her February report, U.N. Special Rapporteur Coomaraswamy recommended that the Government dismantle the centers and find "other mechanisms that do not violate the rights of the prostitutes."

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 are subject to the same restrictions on property ownership as men. The maternity law provides 18 weeks of maternity leave and grants working mothers preferential access to goods and services. About 40 percent of all women work, and they are well represented in many professions. According to the Cuban Women's Federation (FMC), women hold 33 percent of managerial positions. The FMC also asserted that 11,200 women have received land parcels to cultivate; that more than 561,000 women have begun working as agricultural workers, and that women devote 34 hours a week to domestic work, about the same number of hours they spend working outside the home.

*Children.*—The Constitution provides that the Government protect family, maternity, and matrimony. It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. Education is free and compulsory to the ninth grade, but it is grounded in Marxist ideology. State organizations and schools are charged with the integral formation of children and youth. The national health care system covers all citizens. There is no societal pattern of abuse of children. However, child prostitution is a problem, with young girls engaging in prostitution to help support themselves and their families. It is illegal for a child under 17 years of age to engage in prostitution. The police began to enforce this law more actively in late 1998 and continued to do so during the year, as part of their crackdown on prostitution in general. However, the phenomenon continues as more cabarets and discos open for the growing tourist industry which make it easier for tourists to come into contact with child prostitutes.

Police officers who find children loitering in the streets or begging from tourists frequently will intervene and try to find the parents. If the child is found bothering tourists a second time, police frequently fine the child's parents.

*People with Disabilities.*—The law prohibits discrimination based on disability, and there have been few complaints of such discrimination. However, a young married blind couple, members of the Fraternity of Independent Blind People of Cuba were told to leave a cafe in Moron where they sang for tips. There are no laws that mandate accessibility to buildings for the disabled. In practice buildings and transportation are rarely accessible to disabled people.

On November 8, a special police operation dislodged a number of persons with disabilities from selling their products in Central Havana. Police arrested two persons; a court sentenced one of them to 1 year in jail for selling stolen goods.

*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 occurs, and is acknowledged publicly by high governmental officials, including Castro. There have been numerous reports of disproportionate police harassment of black youths. In 1997 there were numerous credible reports of forced evictions of squatters and residents lacking official permission to reside in Havana. The evictions, exacerbated by Decree 217 (see Section 2.d.), primarily targeted individuals and families from the eastern provinces, which are traditionally areas of black or mixed-race populations.

#### *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. The law prohibits strikes; none are known to have occurred. 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 are under the control of the State and the Communist Party, which also manage the enterprises for which the laborers work.

The Communist Party selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibits independent unions and none are recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on freedom of associa-

tion and the right to organize. Those who attempt to engage in unofficial union activities face government persecution.

Workers can and have lost their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations have been created, but function without legal recognition and are unable to represent workers effectively or work on their behalf. The Government actively harasses these organizations. Police detained independent labor activist Jose Orlando Gonzalez Bridon of the CUTC for brief periods in January. Most political dissidents lose their jobs and remain unemployed; the only work they are offered is cleaning streets.

The CTC is a member of the Communist, formerly Soviet-dominated World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is almost the only employer in the country. Since all legal unions are government entities, antiunion discrimination by definition does not exist.

The 1995 Foreign Investment Law (Law 77) continued to deny workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms have managed to negotiate exceptions, the Government requires foreign investors to contract workers through state employment agencies, which are paid in foreign currency and, in turn, pay workers very low wages in pesos. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consult with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen deserve 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 Compulsory Labor.*—Neither the Constitution nor the Labor Code prohibits forced labor. The Government maintains correctional centers where it sends persons for crimes such as dangerousness. Prisoners held there are forced to work on farms or building sites. The authorities often imprison internees who do not cooperate.

The Government employs special groups of workers, known as microbrigades, that are temporarily reassigned from their usual jobs, to work on special building projects. These microbrigades become increasingly important in the Government's efforts to complete tourist and other priority projects. Workers who refuse to volunteer for these jobs often risk discrimination or job loss. Microbrigade workers reportedly receive priority consideration for housing assignments. The military assigns some conscripts to the Youth Labor Army, where they serve their 2-year military service requirement working on farms that supply both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government requires children to work without compensation. All students over age 11 are expected to devote 30 to 45 days of their summer vacation to farm work, laboring up to 8 hours per day. The Ministry of Agriculture uses "voluntary labor" by student work brigades extensively in the farming sector.

*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 fill labor shortages. The law requires school attendance until the ninth grade, and this law generally is respected. The Government prohibits forced and bonded child labor; however, it strongly encourages children to work without compensation (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum wage varies by occupation and is set by the CETSS. For example, the minimum monthly wage for a maid is \$8.25 (165 pesos); for a bilingual office clerk, \$9.50 (190 pesos); and for a gardener \$10.75 (216 pesos). The Government supplements the minimum wage with free education and subsidized medical care (but reduces daily pay by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for about 1 week per month). However, even with these subsidies, the minimum wage does not provide a decent standard of living for a worker and family. Corruption and black market activities are pervasive. The Government rations most basic necessities such as food, medicine, clothing, and cooking gas, which are in very short supply.

The Government requires foreign companies in joint ventures with state entities to hire and pay workers through the State. HRW noted that the required reliance on state-controlled employment agencies effectively leaves workers without any capacity directly to negotiate wages, benefits, the basis of promotions, and the length

of the workers' trial period at the job with the employer. Reportedly these exploitative labor practices force foreign companies to pay the Government as much as \$500 to \$600 per month for workers, while the workers in turn receive only a small peso wage from the Government.

The standard workweek is 44 hours, with shorter workdays 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 are usually inadequate, and the Government lacks effective enforcement mechanisms. Industrial accidents apparently are frequent, but the Government suppresses such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

*f. Trafficking in Persons.*—In February 1999, the National Assembly revised the Penal Code to prohibit trafficking in persons through or from the country and provided the following penalties for violations: 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 are 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 are subject to 20 to 30 years' imprisonment.

There were no reports that persons were trafficked to, from, within, or through the country for the purpose of providing forced labor or services.

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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, is head of state. The Dominica Labour Party (DLP) prevailed in free and fair elections held on January 31, and Roosevelt P. Douglas became Prime Minister. Douglas died in office on October 1, and former Minister of Communication and Works Pierre Charles replaced him. The judiciary is independent.

The Dominica Police is the only security force. It is controlled by and responsive to the democratically elected Government. There were occasional allegations of abuse by the police.

The country's primarily agrarian economy depends on earnings from banana exports, which declined some 20 percent during the year. The Government's efforts to develop the tourist industry had mixed results, with a decline in tourist arrivals but an increase in cruise ship visitors during the year. The Government also is diversifying agricultural production and promoting the export of fresh fruits, vegetables, and coconut products, both within and outside the region. Per capita gross domestic product was about \$3,426 in 1999.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. The principal human rights problems are occasional instances of use of excessive force by police, poor prison conditions, societal violence against women and children, 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. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were some allegations of occasional use of excessive force by the police. During the first half of the year, the

authorities reportedly received 13 complaints regarding excessive use of force by the police.

In November 1997, the authorities forced the Commissioner and Deputy Commissioner of police to retire as a result of recommendations by a Commission of Inquiry that investigated allegations of mismanagement, corruption, and police brutality. Under new leadership, the police created an Internal Affairs Department in December 1997 to investigate public complaints against the police and to provide counseling to police. In July 1998, a consultant from the United Kingdom conducted a 3-month study to update antiquated police regulations and to establish new operational guidelines for the police. This report was submitted to the Government in 1998, but the recommendations have not yet been implemented.

Prison conditions are poor. Overcrowding and unsanitary conditions continue to be problems in the sole prison facility. There are over 200 prisoners. The prison provides work therapy, sports programs, educational opportunities, and counseling for inmates. There continued to be complaints by prisoners about the poor quality of prison food. Female prisoners are segregated from male prisoners; however, juveniles are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution requires that the authorities charge persons with a crime within 24 hours after arrest. If charges are brought, the police must bring the detainee to court within 72 hours. This requirement generally is honored in practice, although those arrested on Fridays often must remain in jail over the weekend and are not charged until the following Monday.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is 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 provide 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 respect these prohibitions, and violations are 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 respects this in practice. The political opposition openly criticizes the Government.

The print media consist of two private newspapers and political party journals; all publish without censorship or government interference. The principal radio station is state-owned and has a government-appointed board. There is also an independent radio station owned by the Catholic Church. Citizens also have access to independent news sources through cable television and radio reception from neighboring islands.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government respects them in practice. The Government may revoke passports if subversion is suspected but has not done so in recent times.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution calls for elections at least every 5 years.

On January 31, the Dominica Labour Party won 10 seats in 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 in the 21-member 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 on October 1, and the former Minister of Communication and Works, Pierre Charles, became the Prime Minister. Ian Douglas, nephew of Rosie Douglas and representing the DLP, won the December 11 by-election for the deceased Prime Minister's seat.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties; however, they are underrepresented in practice. Voters elected two women to Parliament in the January elections.

Carib Indians participate in national political life.

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

There are no government restrictions on the formation of local human rights organizations, although no such groups exist. Several advocacy groups, such as the Association of Disabled People and a women's and children's self-help organization, operate 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, Religion, Disability, Language, or Social Status*

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities respect in practice.

*Women.*—Sexual harassment and domestic violence cases are common, and there is no family court to deal specifically with domestic violence issues. Women can bring charges against husbands for battery, and both the police and the courts prosecute cases of rape and sexual assault, but there are no specific spousal abuse laws. However, in April 1998, a new Sexual Offences Act went into effect to replace the previous act, which required medical evidence or witness corroboration for indictment. As a matter of policy, all rape cases are handled solely by female police officers. The Department of Labor recruited a permanent counselor and established a crisis response mechanism to assist women who are victims of domestic violence. The Welfare Department assists victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police. The courts may issue protective orders, but the police do not enforce them consistently.

Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. While there is little open discrimination against women, property ownership continues to be deeded to "heads of households," who are usually males. When the male head of household dies without a will, the wife cannot inherit the property or sell it, although she can 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.

The Dominica National Council of Women, a nongovernmental organization, has developed local adult education and small business training programs for women. According to the Labor Department, many women in rural areas find 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 is compulsory through the age of 16, and primary health care is available throughout the island.

Various laws enumerate children's rights, but their enforcement is hampered by lack of staffing in government agencies. According to the Welfare Department, reported cases of child abuse, including sexual abuse, have increased in the past few years. In 1999 there were 303 reported cases of child abuse, which affected 71 boys and 232 girls. Of these cases, 124 involved sexual abuse. At year's end, there were

nine staff members in the social welfare office that handles all welfare problems, including complaints of child abuse.

Although the maximum sentence for sexual molestation (rape, incest) is life imprisonment, the normal sentence given is 15 years except in the case of murder. The age of consent for sexual relations is 16 years.

*People with Disabilities.*—Beyond the general protection of the Constitution, there is no specific legislation dealing with the disabled. However, the labor laws permit authorization of employment of a disabled person for less than the minimum wage, in order to increase opportunities for employment of the disabled (see Section 6.e.). There is no requirement mandating access for those with disabilities.

*Indigenous People.*—There is a significant Carib Indian population, estimated at 3,400 persons, of a total population of 76,000. Most live on a 3,783-acre reservation created in 1903 and expanded in 1997. School, water, and health facilities available on the Carib reservation are rudimentary but similar to those available to other rural Dominicans. Most Carib Indians engage in farming, fishing, and handicraft. Unemployment is believed to be higher than in rest of the country, while the average income is below the national average. About 65 percent of the Carib population is between the ages of 18 and 35.

The reservation is governed by the 1978 Carib Constitution. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and eight members of the Council of Advisors. Elections are held every 5 years, and the latest election was held in July 1999. According to the Carib Constitution, the Council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

There are credible reports of discrimination against Carib women who are married to, or who live with, non-Carib men, making it difficult for such couples to obtain permits to build homes within the reservation. Building permits are obtained from the Carib Council. Until 1979 the Carib Constitution 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 has changed, practice is not yet in keeping with the law. In one case, a Carib woman in a common-law relationship with a non-Carib man who tried to build a house on land reserved for her family received threats that her house would be burned down. An estimated 25 percent of the Carib Indian population is believed to be in mixed marriages or relationships.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers have the legal right to organize, to choose their representatives, and to strike, but unions represent less than 10 percent of the work force. All unions are independent of the Government. While there are no direct ties, members of certain political parties dominate some unions. There is no restriction on forming labor federations, but there is no Trades Union Congress. Unions may affiliate with various international labor bodies.

*b. The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including in government service, and there is also recourse to mediation and arbitration by the Government. The law prohibits antiunion discrimination by employers, and judicial authorities enforce union rights. In addition, employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the small Labor Inspection Office lacks sufficient personnel to carry out its duties.

Labor regulations and practices governing the country's industrial areas and export firms do not differ from those prevailing in the rest of the economy. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including that by children, and such labor is not known to exist.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement. The law prohibits forced or bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

*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) is as low as \$0.37 (EC\$1.00) per hour if meals are included. However, minimum wages for most workers fall 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 shopclerks. Minimum wages are not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earn 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 disabled person 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. The Advisory Committee on Safety and Health is an established body but has never met. 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.*—There are no laws that specifically address trafficking in persons.

The country has an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$15,000 (EC\$40,000) to \$50,000 (EC\$135,000). This process reportedly has facilitated the illegal immigration of persons from China and other countries to North America where, in some instances, they may be forced by the criminal organizations that provided the funds to work under conditions similar to bonded labor to repay their debt.

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## DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral Congress. President Hipolito Mejia of the Dominican Reform Party (PRD) took office on August 16 after a free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also has control of the Senate and Chamber of Deputies. The Constitution provides for an independent judiciary; however, interference from outside forces remains a problem. The Government took some steps to improve the ability of the judiciary to resist such outside interference.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy) form the security forces. The PN is 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 have personnel from both the police and the military, report directly to the President. Although the security forces generally are responsive to civilian authority, there were instances in which members of the security forces, principally the National Police, acted independently of government authority or control. Members of the National Police, and to a more limited extent the military, continued to commit serious human rights abuses.

The economy, once heavily dependent on sugar and other agricultural exports, continues to diversify; tourism, telecommunications, and free trade zones (FTZ's) are major sources of income and employment. Remittances from abroad, estimated to exceed \$1.5 billion, are equivalent to approximately 9 percent of the \$2,100 per capita gross domestic product. The country's agricultural and tourism sectors and electrical power network largely have recovered from the effects of Hurricane Georges, which hit the island in 1998, while housing reconstruction and transportation infrastructure lag behind. The 1999 transfer of sugar mills to private control contributed to increasing poverty and joblessness in the bateyes (sugar cane shantytowns). Income distribution in the country is highly skewed, and according to the U.N. Development Program, the richest 10 percent of the population receives over 37 percent of the income, over 18 times that received by the most impoverished 10 percent of the population.

The Government's human rights record was poor, and serious problems remain. Police committed extrajudicial killings. The police, and to a lesser degree the military, tortured, beat, and otherwise abused detainees and prisoners. Police on several

occasions used force to disperse demonstrators. There was a significant increase in allegations of physical abuse and torture of minors in police and military detention. Prison conditions ranged from poor to extremely harsh. Police arbitrarily arrested and detained suspects and suspects' relatives. The ability of prosecutors to limit police detentions and practices has eroded, as compared with 1999. While there have been some improvements in the efficiency of the judiciary, lengthy pretrial detention and long delays in trials remained problems. Police committed break-ins of private homes without judicial orders. The authorities rarely prosecute abusers, and at times members of the security forces commit abuses with the tacit acquiescence of the civil authorities, leading to a climate of impunity. Numerous allegations of corruption by government officials were raised following the change of administration. The authorities infringe on citizens' privacy rights. Members of the police harassed journalists. The Government at times pressured editors not to publish unfavorable items, and journalists practice self-censorship. The Government at times restricted freedom of assembly. The Government restricts the movement of and forcibly expels Haitian and Dominican-Haitian migrants. Violence and discrimination against women; prostitution, including child prostitution; abuse of children; discrimination against the disabled, discrimination against and abuse of Haitian migrants and their descendants, and child labor are serious problems. There continued to be reports of forced labor. Workers on the sugar plantations and mills continued to work in unsafe conditions. Trafficking in women and girls is a serious problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials; however, police committed at least 250 extrajudicial killings. It is difficult for any outside observer to quantify the exact number of victims of extrajudicial killings each year; included in this number are civilians who were killed in alleged "exchanges of gunfire" with police. The police fail to cooperate with civilian authorities in many ways, which made quantifying the problem very difficult. For example, the police do not provide Public Ministry officials with reports on investigations of citizens killed in confrontations with police; police rarely documented citizen killings in accordance with minimum investigations or crime scene standards; police denied civilian authorities, including prosecutors requesting information, transcripts of police tribunal hearings that process these cases in secret; and the police have been known to publicly fire officials involved in these incidents, only to reinstate them quietly later.

The Dominican Human Rights Committee and other observers state that the police may employ unwarranted deadly force against criminal suspects in a kind of uniformed vigilantism. In addition, some victims are involved in private disputes with police agents, while other victims later were found to be honest citizens erroneously caught up in the wave of antigang violence carried out by the police. The circumstances of the vast majority of these killings are questionable, but witnesses other than the police usually are lacking.

Extrajudicial killings stem from the lack of basic education, poor training, and weak discipline of the members of the police force. These problems are aggravated by low pay and the fact that the Government's budgetary allocation for the police is too low to support the higher recruiting standards needed and to provide adequate training for police. For example, new recruits fire only one round of ammunition during training, and there is no coherent policy on the use of deadly force or rules of engagement by the police. Additionally, the lack of professional, transparent, and credible investigation of the circumstances in which police kill citizens in "exchanges of gunfire" lead to the perception of impunity in these killings. Finally, there is a lack of specific training in human rights as applied to police work.

In the majority of the 250 deaths at the hands of police, the police characterized the victims as delinquents. The rest were wives, girlfriends, or associates of the officers, other civilians, or fellow officers. In most cases, the police claimed that the deaths resulted from the exchange of gunfire in the course of an arrest. Amnesty International's August report noted the large number of deaths at the hands of police and the lack of transparency in the investigative process. In October 1999, the Inter-American Commission on Human Rights (IACHR) issued a report that criticized the police for committing extrajudicial killings and neglecting to investigate and punish officers responsible for such abuses. Police assert that the deaths of so-called delinquents resulted from shoot-outs requiring the police to act in self-defense. However, a number of cases demonstrate that this often is not the case.

For example, on April 18, police shot and killed Antonio Lora Fernandez allegedly during questioning at the Isabela police substation of Puerto Plata.

In July in Manoguayabo, a suburb of Santo Domingo, police shot and killed Juan Expedito Garcia, a 49-year-old businessman who was traveling with his daughter-in-law, Katy Jimenez de Garcia. Garcia and Jimenez were victims of an attempted carjacking by a group of delinquents. The delinquents ultimately kidnaped the two and sped away, followed closely by the police. After being stopped by police, Garcia and Jimenez threw themselves to the ground, raised their hands, and told the police not to shoot because they themselves were victims. Jimenez, the only surviving witness, reported that the police shot Garcia four times in the head and three times in the body before shooting and killing one of the kidnapers. She overheard one officer giving the order to kill her as well, but was spared when she was able to explain the circumstances of their kidnaping. The police commission investigating the incident recommended that those responsible be tried in a military tribunal. At year's end, there was no public information about the investigation into this case.

In July witnesses, including the victim's sister, reported that police shot and killed 20-year-old Juan Jose Urena in Santo Domingo. The police said that Urena was wanted by the Secret Service and the Department of Homicide and Crimes against Property. They reported that when they tried to detain Urena, he threatened them with a machete, and they were forced to shoot him. The victim's sister, who saw the incident, said that he did not resist arrest, but that he already was wounded and handcuffed when the agents fired the shots that killed him. Urena's death at the hands of police led to public protests, tire burnings, and the throwing of Molotov cocktails. Police responded with tear gas and guns. The police shot a bystander in the leg as they tried to calm the protests (see Section 2.b.). The police officers who participated in the shooting of Urena were arrested pending a police investigation.

On July 18, in Guayabin, on the northern border with Haiti, military agents shot and killed 6 Haitians and 1 Dominican citizen and wounded 13 others after they crossed the border illegally in a truck (see Section 2.d.).

On August 13, a 30-year-old Haitian died after soldiers took him into custody in La Canada, near Hondo Valle (see Section 2.d.).

On September 25, police killed two persons in separate incidents, 20-year-old Emilio Jose Matias Moronta and 23-year-old Lauri Mendez Sena, in Santo Domingo neighborhoods Villa Maria and Los Alcarrizos, respectively. The local press reported that the police said that Moronta resisted arrest and threatened officers with a gun; however, an unidentified businessman claimed the police version was false and that the victim did not carry a firearm and was first wounded by the police in the leg. In the same press report, the police claimed Sena resisted arrest with a machete. At year's end, there was no public information about an investigation.

On November 15, police shot and killed Johnny Perdomo Santo, in the Santo Domingo neighborhood of Ozama. Police reported to the press that they followed Santo in a car, whose plates linked it to a history of crimes, and that Santo attempted to shoot at them. Santo reportedly died on the way to the hospital. Witnesses told the press there were a total of three victims, including a woman. They said two corpses were taken away in the police vehicle, and a third one was taken away in the victims' car. At year's end, there was no public information about an investigation into the facts of the case.

Military personnel killed a number of Haitian migrants who were attempting to enter the country (see Section 2.d.).

The administration of President Hipolito Mejia acknowledged the problems with the police apparatus and early in his administration agreed to the creation of a Police Reform Commission to be made up of the Chief of Police, the Attorney General, the Secretary of the Armed Forces, the Legal Advisor to the President, representatives of human rights organizations, and legislators. However, President Mejia retained the services of Chief of Police Pedro de Jesus Candelier, under whose tenure the number of deaths at the hands of the police rose significantly over previous years. At year's end, the Commission had not made public any recommendations, but the Secretary of Interior and Police indicated in early December that he would make public and open to public debate any contemplated reforms. In October the Attorney General publicly agreed to more aggressive independent investigation of extrajudicial killings. On December 7, the Supreme Court president urged judges to apply the full weight of the law in cases of violations of human rights.

Police courts may try police officers or may remand them to civilian court jurisdiction. Military courts try military personnel charged with extrajudicial killings or other crimes. Police Chief Candelier announced that every time an officer is involved in a questionable incident, the case goes to a commission of superior officers for investigation. He said that if it is determined that the police officer exceeded his authority, the case is sent to the police courts or to the civilian courts, depending on the severity of the offense. However, the police send very few—if any—cases to

civilian courts, despite requests from the former Attorney General, District Attorney, and Justice Reform Commissioner. On September 4, six civil society groups submitted an "Act of Unconstitutionality" to the Supreme Court on the issue of the legality of Law 285, which encompasses the Code of Police Justice. Civil society groups argue that police courts violate the Constitution, and that they weaken the separation and independence of governmental functions, as well as the exclusivity of the judicial function in the administration of justice. The lawsuit asks the Court to rule on the constitutionality of these police tribunals; a decision was still pending at year's end.

State agents in prisons also committed extrajudicial killings. In the Najayo Prison in San Cristobal, police custodians shot and killed inmates Francisco Alberto Jaquez Brito, Manuel Sanchez Fermin, and Rafael Taversal Alberto in August during an escape attempt. A commission that included the Attorney General, the Chief of Police, and the Director of Prisons concluded that police agents acted negligently and in excess of their duties, and that the escapees could have been subdued by other means. The prisoners had not yet breached the exterior gates of the prison campus when they were shot and killed. The commission recommended that the three police cadets be tried in a police tribunal, and that three police supervisors be sanctioned with days in prison and "arrest without salary" for failing to control their subordinates and for failing to take an adequate count of prisoners. Human rights groups called for civilian trials for those responsible for the deaths of the prisoners.

There also were a number of deaths in prisons due to harsh conditions and official negligence (see Section 1.c.).

In July 1999, the authorities arrested a general, a colonel, a legal consultant, and various police officers in connection with the deaths of three alleged delinquents in Moca. In a civilian video, the police were shown handcuffing the three young men and placing them, alive, in the back of a police pickup truck. When the truck arrived at police headquarters, the three men were dead. A lower police tribunal reportedly tried, convicted, and sentenced officers Cesar Ovando Michell and Virgilio Severo Rodriguez to 2 years in prison, but a Police Appeals Tribunal later absolved the officers. The first-instance police tribunal discharged three other officers. In early November, the Attorney General asked Police Chief Candelier for a detailed report on the tribunal's proceedings, and said that he would investigate the possibility of reopening the case on a procedural appeal to the Supreme Court. Candelier said that he would not prevent such action; however, as of year's end, the case had not yet been presented to the Supreme Court.

In August a court sentenced Rafael Paredes de la Cruz, a former cadet in the National Police to 15 years in prison for the 1998 killing of Father Jose Antonio Tineo Nunez. The court found the other defendant, Juan Bautista Caminero Mendoza, not guilty.

There was no progress reported in trials of police officers detained for killing law student Franklin Bortolo Fabian Mejia in July 1998; for killing a suspected robber of a Santiago pharmacy, also in July 1998; or for the triple homicide in November 1998 of three young male victims who might have been killed because of their refusal to share the proceeds of a recent robbery with the police.

In August a court in Santo Domingo released the verdict in the case of the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. Retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and Luis Emilio de la Rosa Beras admitted to the killing and a court sentenced each of them to the maximum penalty of 30 years in prison. The court also awarded an indemnity of \$314,000 (5 million pesos) to Martinez's surviving brothers. Lawyers for the sentenced defendants say that they plan to appeal. Although several witnesses testified to the knowledge and complicity of former President Balaguer in the murder, he was not called to testify for health reasons.

In April violence at political rallies during the election campaign resulted in two deaths and several injuries when PRD bodyguards fired into the crowd at a political rally in Moca (see Section 3.)

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

There was little progress in the investigation into the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in May 1994. According to the former District Attorney, there is not enough evidence to go to trial, and existing evidence is contradictory. There was no action during the year on the family's complaint to the Inter-American Court of Human Rights.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the law prohibit torture and other forms of physical abuse; however, security force personnel continue to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbate the problem of

physical abuse. Human rights groups, the local press, and the President's Commission to Support the Reform and Modernization of Justice (Justice Reform Commission) reported regular and repeated occurrences of physical abuse of detainees while in custody. There was a significant increase in allegations of physical abuse and torture of minors in police and military detention.

In June the Justice Reform Commission reported cases of torture and abuse of at least nine minors in the police stations in Villas Agrícolas, Los Farallones, Villa Francisca, and Plan Piloto in the national district. It cited numerous instances of beatings, sexual abuse, asphyxiation with plastic bags to elicit confessions, and a torture method called "roasting the chicken" in which the victim is placed over hot coals and turned until confessing. After completing an internal investigation, the National Police claimed that there were no instances of torture or abuse, and that if force was used, it was necessary to obtain the "obedience" of the minor. The Justice Reform Commission criticized the police for failing to conduct an objective investigation and for covering up serious abuses. As of September, the district attorney for Santo Domingo had made two requests to the Chief of Police that three officers be turned over for interrogation. Both of these requests were denied. An investigative judge was appointed to the cases, which were still pending in the Eighth Penal Court in Santo Domingo at year's end.

In August judges of the Appeals Court for Children and Adolescents in San Pedro de Macoris made public a set of allegations of similar abuses committed against 19 minors in police stations in Juan Dolio and Boca Chica, as well as in the General Pedro Santana public jail, which is controlled by the army. One of the adolescent victims reported that the police beat him to force him to say "yes" to their questions; in the interrogation sessions, they hit him with the butts of their guns; they made him kneel and two officers at once hit him in the ears and kicked him; they hit him with a baton, and put him in a dark room where they applied an electric current to his body. The child reported that due to the marks these incidents left on his body, the police held him for 8 days before transferring him to the judge. The law requires that minor detainees be transferred to a judge within 24 hours. There is no information available regarding any investigation into these alleged abuses by the police or the military.

Homosexual and transvestite detainees report to gay rights advocates that during detention the police have held them in a darkened room and have given them the alternative of performing fellatio on guards or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police use the prospect of being locked in with the most dangerous prisoners as a threat.

The National Coordinator for Human Rights cited the Department of Homicide and Robbery Investigations and the DNCD for the persistent use of torture to extract confessions from detainees. According to human rights organizations, the method most often used is beating. After several former detainees went to the press in 1999 with credible reports that police interrogators had beaten them repeatedly, the Chief of Police and Attorney General designated a commission to investigate. The beatings allegedly took place during periods of detention of up to 15 days without arraignment before a judge (the Constitution permits only 48 hours). The informants reported that the police repeatedly awoke them during the night for questioning. Human rights advocates have described another form of abuse that guards reportedly use against prisoners in the Mexico section of San Pedro de Macoris Prison. Prison officials use a punishment called "the toaster", where prisoners are laid, shackled hand and foot, on a bed of hot asphalt for the entire day and are beaten with a club if they scream. The army administers San Pedro de Macoris prison.

The National District Prosecutor's office continued to place lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to assure that detainees' rights are respected (see Section 1.d.). Most of the affected PN and DNCD investigators responded positively to this oversight, although some DNCD personnel reportedly complained that their hands were being tied. This initiative remains largely limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There is some evidence that these assistant prosecutors at times acquiesce in traditional police practices, rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country have not assumed strong roles in managing criminal investigations and ensuring the rights of suspects. Human rights courses are offered in the training curriculums for military and DNCD enlisted personnel and officers; however, the courses are optional. In October the Armed Forces Secretary inaugurated the Military Institute of Human Rights, located in Santiago.

Civilian prosecutors sometimes file charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for

torture and physical abuse, including sentences of from 10 to 15 years in prison. However, until recently these provisions were not known fully or applied by prosecutors and judges. There have been repeated calls by human rights groups as well as by the Justice Reform Commission for civilian trials of officials charged with abuse and torture; however, most cases, if tried at all, are sent to military or police tribunals.

Out of a police force of about 23,000 members, Police Chief Candelier fired 84, disarmed 200, and sent 100 officers for retraining during the first 6 months of the year as part of an effort to increase respect for human rights and discipline within the police force. He reported that many of the 84 were fired for drug use, including cocaine and marijuana. However, some discharged officers later were rehired. Significant problems also remain because serious efforts have not been made to vet police recruits. Many persons with prior criminal records reportedly have been incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army.

The police at times forcibly dispersed demonstrators, using tear gas and weapons (see Sections 2.b. and 6.b.).

Prison conditions range from poor to extremely harsh. Reports of torture and mistreatment in prisons are common. The prisons are seriously overcrowded, health and sanitary conditions are poor, and some prisons are out of the control of the authorities. The General Directorate of Prisons falls under the authority of the Public Ministry and is seriously underfunded. Budget allocations for necessities such as food, medicines, and transportation were lacking. Medical care in all prisons suffers from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS are not transferred to a hospital, but some terminal-stage inmates were released early to spend their last days at home.

In 32 prisons around the country with a total capacity of 9,000 persons, the police and the military hold more than 15,000 prisoners and detainees. The military controls 22 prisons with a total of 6,000 prisoners, and the National Police controls 10 prisons, with a total of 9,000 inmates. A warden is responsible for running each prison and reports to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel), who is appointed for 3 to 6 months only, reports to the warden and is responsible for providing security. However, in practice the colonel is in charge of the prison, and neither the Directorate of Prisons nor the individual wardens have much power. According to credible reports, some prisons are totally out of the control of the authorities. They are, in effect, operated by armed inmates, who decide whether an individual gets food, space to sleep, or medical care. Individual inmates only can secure a tolerable level of existence by paying for it. Only those with considerable personal or family resources can do so.

Conditions at La Victoria prison, which is run by the National Police, pose a serious threat to life and health. In June this prison held over 3,500 prisoners in a facility built for 1,000. In March there was a serious fire at La Victoria in which 13 persons died, 44 suffered burns, and 20 others were injured. Inmates alleged that guards refused to open cell doors so that they could escape. At year's end, the Director of Prisons reported that an investigation had been conducted, and that those responsible were arrested and sent before a police tribunal. However, there was no public information on the trial's outcome.

The Barahona Commission for the Defense of Human Rights has criticized the conditions in the Barahona prison, which has 22 beds, but currently holds 586 inmates. In one cellblock, which has space for 32 persons, there are 145 inmates. The commission issued a report at mid-year, in which it described 52 Haitians imprisoned there as "practically kidnaped," and said that they have not been taken to their hearings. The Commission reported that the bathroom facilities amount to cesspools and that the authorities are indifferent to the lack of hygiene; prisoners do not receive medicine or medical attention, and many have tuberculosis and other diseases. They allegedly receive only one meal on Saturdays and no meals on Sundays.

A government food program for the general public is used to provide lunches at some prisons. The former Director of Prisons reported that his office had the budget to spend \$0.50 (8 pesos) per inmate to provide three meals per day. Inmates surveyed said that the food provided was unacceptable, and most chose to eat whatever they could beg for or purchase from persons in the vicinity of the prison or from family members. Due to inefficiency and corruption within the prison system, visitors often have to bribe prison guards in order to visit prisoners.

Female prisoners are separated from male inmates. In general, conditions in the female prison wings are superior to those found in male prison wings. There have been some reports of guards physically and sexually abusing female inmates. Female inmates, unlike their male counterparts, are prohibited from receiving conjugal

visits. Those who deliver while incarcerated are permitted to keep their babies with them in prison until they reach 1 year of age.

In May in Rafey Prison in Santiago, guards beat six inmates with aluminum and wooden bats as they bathed in the rain in a courtyard of the prison. Two officials allegedly responsible for the beatings were said to have been tried in a police tribunal; however, there was no public information available about any investigation or trial.

The law requires that juveniles be detained separately from adults. However, recent press reports found a high incidence of juveniles who were detained with adult prisoners being forced into sexual servitude in return for protection at prisons around the country. Najayo prison has a new wing for juvenile offenders that holds 250 persons. Inmates are not separated by crime within the prison population; however, they may be put into solitary confinement for disturbances while incarcerated.

The Government permits prison visits by independent human rights monitors and by the press.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the security forces continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police traditionally detain all suspects and witnesses in a crime and use the investigative process to determine who are innocent and merit release, and who they should continue to hold. After the prosecutor's office placed its lawyers in several police stations in 1997, the police began to curtail the practice of arbitrary detention in those precincts. However, progress has been slow (see Section 1.c.), and this program has been limited for the most part to the Santo Domingo metropolitan area. During the year, no new prosecutors were placed in police stations, and the effectiveness against human rights abuses of those working in police stations cannot be discerned accurately.

The prosecutor for the Court of Appeals in Santiago reported that the Department of Investigation of Homicide and Robbery of the National Police, Northern Command, routinely detained persons beyond the 48-hour limit. 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 are held for 8 to 14 days, well beyond the 24-hour limit for minors. The official in charge of the Department for Minors attributes this to lack of swift action by the Juvenile Defender, the Public Ministry official in charge of interrogating minors and sending them before a Juvenile Court judge. By law juveniles may not be interrogated by the police or in the presence of police.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrest and detain individuals arbitrarily. The alleged objective of the roundups is to fight delinquency. Following the indiscriminate arrests, the police regularly detain individuals for up to 20 days or more, while they look for a reason to charge them with a crime. For example, on September 23–24, police arrested 900 persons around the country in 1 weekend with the objective of "preventing the commission of crimes" and "maintaining order and peace." They also took possession of property including motorcycles, other vehicles, and weapons. Human rights organizations report that individuals detained in these roundups frequently are beaten. The police say that they rely upon unlawful detention without presentation to a court because some cases involve more complicated investigations. However, there is a clear pattern of the police arresting individuals before investigating a crime thoroughly, and relying on confessions to make their case. Without the education, training, or equipment to conduct modern forensic investigations, police rely instead on holding suspects incommunicado (see Section 1.e.), repeatedly questioning them, and sometimes beating them, until they confess. Prosecutors who are assigned to monitor the criminal investigation phase at police stations appear to be unable to control the practice (see Section 1.c.).

A related problem is the police practice of arresting and detaining individuals solely because of their familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse are all vulnerable to this practice, the goal of which is to compel an at-large suspect to give himself up or to coerce a confession from one already arrested. In 1999 the PN chief had ordered that this practice be ended immediately; however, it continued. According to the Dominican Human Rights Committee, there were several reports of detentions of suspects' relatives during the year.

Local human rights organizations have reported on and criticized police roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly take groups of dark-skinned or "Haitian-looking" individuals to empty buildings soon after they are paid, in order to extort money from them. One worker reported that he was beaten frequently, and that many of his paychecks were taken during these roundups. He said that the license plates are removed from the official police vehicles so that the perpetrators cannot be identified easily.

Many suspects suffer long pretrial detention. In November over 83 percent of the national prison population was awaiting trial, 11 percent higher than in 1999; of these, about three-quarters were "prisoners without sentences," and the remainder had convictions under appeal. However, while suspects nationwide still suffer long pretrial detention, judicial statistics show reduced delays for the last 3 years in the Santo Domingo National District (an area that accounts for approximately 45 percent of all criminal cases in the country). The average pretrial detention throughout the country is more than 6 months.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail serves as the de facto criminal justice system. As a rule, defendants awarded bail rarely face an actual trial. (Time already served counts toward a sentence.) This situation improved somewhat as a result of the steps taken by the former Santo Domingo District Attorney and the judiciary, in cooperation with the Director of Prisons, to introduce a prisoner registry system that focuses on providing timely trials for prisoners. The failure of prison authorities to produce the accused caused a significant percentage of trial postponements. Authorities held some prisoners even though there were no formal charges against them, and kept some prisoners jailed even after a court ordered their release. One prisoner held in Najayo Prison was charged with swindling over 4 years ago. The maximum penalty for this crime is 3 years; however, the prisoner was never tried or convicted. His case finally was dismissed in August. In October the Attorney General proposed a program to reduce prison crowding by releasing inmates who only were held pending payment of a fine. Large numbers of prisoners are generally pardoned at the end of the year. In early December, prison authorities paroled 80 elderly (75 years or older) persons, 90 terminally ill prisoners, and 150 inmates who have finished sentences, but cannot pay their fines.

Notable advances also were made by the new Mejia administration to increase the availability of free legal services to the poor. Most detainees and prisoners cannot afford adequate defense services. There were 12 new public defenders added, bringing the total to 31 throughout the country. A bill to create a national public defender program was pending in Congress at year's end.

Hoguisten Canji, a 33-year-old Haitian, spent 9 years in prison without an official charge and without ever being presented to a judicial officer. His case finally came to the attention of the Public Defender Program, which ultimately obtained his release on January 14 on a writ of habeas corpus. His attorney noted that there was no official file on the case, no name of the person that he allegedly murdered in 1991, and no order for preventive detention. A Public Defender Program attorney also defended Hector Manuel Reyes, who spent 17 years behind bars for a murder for which he had never been convicted. The authorities had lost his case file. Reyes was released on March 20. Officials acknowledge that there may be hundreds of such cases in the prison system.

The law prohibits forced exile, and there were no reports of its use. However, persons who credibly asserted that they were citizens sometimes were expelled to Haiti (see Sections 1.f. and 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, attempts by public and private entities, including the executive branch, to undermine judicial independence still remain. The judiciary appears better equipped to resist such outside interference, due in part to training funded by foreign technical assistance. Court officials also began to implement new selection criteria for judges. The National Judiciary Council chooses members of the Supreme Court, with the goal of ensuring independence from the executive and legislative branches, and some progress has been made.

The judiciary, based primarily on the Napoleonic Code, includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters.

Military or police courts have jurisdiction over members of the security forces. However, civil society groups challenged this system in a Supreme Court case filed in August (see Section 1.a.). Public pressure exists for military or police boards to remand cases involving serious crimes to civilian courts for review; however, there is no information that any such cases were remanded during the year. In other

cases, civil authorities have requested that the PN turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution. There was little cooperation from the National Police or military in requested investigations during the year (see Section 1.c.).

Judges, rather than juries, render all verdicts. Under the 1994 constitutional amendments, which entered into force in August 1998, the Supreme Court is responsible for naming all lower-court judges in accordance with a judicial career law. The National Judiciary Council selects new justices of the Supreme Court. The Council consists of the President, the President of the Senate, the President of the Chamber of Deputies, two at-large members designated by them (one Senator and one Deputy, from parties different than those of the presidents of the Senate and Chamber), the President of the Supreme Court, and one other justice designated by the Supreme Court.

Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right to be presented to a competent judicial authority within 48 hours of one's detention; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. These rights commonly are disregarded.

The most serious and common violation of these rights occurs when police detain suspects, sometimes for many days, without giving them access to a telephone call to family while subjecting them to frequent questioning. Although accused persons are entitled to have an attorney present, they often are not permitted to call one or, if one arrives, the attorney is not permitted to be present during the questioning. (The police complain that the presence of attorneys interferes with their investigations.) Torture frequently is used as a method to extract a confession during questioning (see Section 1.c.). Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently form the only evidence presented at the trial.

The law provides for the remedy of "Amparo," an action any citizen may bring for violation of a constitutional right, in accordance with the terms of the Inter-American Convention on Human Rights. This action includes violations by judicial officials. The process of dispute resolution, including reconciliation, mediation, and arbitration, continues to be used as an alternative to trial and incarceration.

There remains a large backlog of criminal cases in the National District and throughout the country. The Supreme Court's plan to unclog the court dockets has been frustrated by the Government's failure to allocate sufficient funds. Dockets are crowded with traffic infractions that should be heard in the traffic courts provided for by statute; due to a lack of funds, the traffic courts have not been set up. Other complications in clearing the backlog arise from the exhaustion of funds for transporting prisoners to court; many cases must be sent back when the accused does not appear. The Government has not yet established 25 additional courts provided for by law.

Throughout the year, there were improvements in the administration of justice that resulted from cooperation between the judiciary and the Santo Domingo district attorney's office. New cases unnecessarily congesting the criminal system were reduced by more than 50 percent through use of community conciliation centers, and investigative judge rulings increased by 65 percent in the last 2 years. The courts' efforts to improve productivity of judges was notable: the number of definitive (final) sentences quadrupled over the past 3 years and time to trial was reduced from an average of 11.8 to 6.5 months. It is not yet clear how the change of 90 percent of Public Ministry officials in August will affect the changes introduced by the previous administration.

The judicial training school trained 530 judges (out of a total of 585) on drafting and structuring sentences in its first cycle. The school prepared a computer seminar on fundamental constitutional protections with four modules for judges on human rights. In October it held a seminar on domestic violence and a seminar on judicial ethics for 200 judges. A dialog among 500 judicial and civil society representatives created a judicial code of ethics.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution contains provisions against arbitrary entrance of one's home; however, police sometimes break into private quarters without cause to search for suspects, and the authorities infringe on citizens' privacy rights in other ways as well. Al-

though the Government denies arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it has not taken necessary steps to dismantle an active private wiretapping industry.

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business in pursuit of such suspects. Otherwise judges must authorize arrests and issue search warrants. However, the PN and occasionally the DNCD continued to violate these requirements. Some prosecutors confessed that out of "tactical necessity to combat criminality" and "with great reluctance," they tolerated the illegal search practices. They justified their actions by arguing that the Government has not provided sufficient resources or attention to criminal investigation and that, given the cumbersome and antiquated criminal procedures, adhering to the letter of the law would make law enforcement nearly impossible.

The Dominican Human Rights Committee reported that police carried out raids on private homes in the Santo Domingo neighborhoods of Caputillo, Villa Agricola, Los Alcarrizos, and Guachupita; police allegedly went into homes without search warrants to look for delinquents.

The police continued to detain relatives and friends of suspects to try to compel suspects to surrender or to confess (see Section 1.d.).

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

*a. Freedom of Speech and Press.*—The law provides for these freedoms, and the Government generally respected them in practice; however, there were some isolated exceptions. For example, there were isolated instances of government pressure on editors not to publish certain unfavorable items, such as negative poll results.

Citizens of all political persuasions exercise freedom of speech. Newspapers and magazines freely present a diversity of opinion and criticism; there are eight daily and seven weekly newspapers, and three weekly magazines. However, journalists and editors practice self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

The National Press Union criticized police treatment of journalist and union secretary Paul Meguis Jose in April. Jose was following a story in Batey Central in Barahona when a police officer shoved him, threw his camera on the ground, and then confiscated it. A police tribunal found the official guilty of an infraction, and ordered that he serve 10 days in prison. In San Francisco de Macoris, police smashed the camera of La Nacion newspaper reporter Julio Benzant. DNI agents arrested and mistreated Jose Rivas, a reporter for the daily newspaper Hoy, during his coverage of the return of Mario Duran Cabrera, one of the defendants in the Orlando Martinez case (see Section 1.a.). The Dominican Human Rights Committee criticized the detention of journalist Robert Vargas, of the Spanish news agency (EFE), and the unlawful search of his residence carried out by police as an attempt to intimidate him for his reporting on human rights issues.

Numerous privately owned radio and television stations broadcast all political points of view. The Government controls one television station.

In September the National Press Union criticized the violation of freedom of expression by the director of the government-owned Dominican Radio and Television for canceling an FM radio program. The director of the station arrived with a group of military officers to interrupt the broadcast and said that the program served as a forum to criticize the Government of President Mejia. The union complained that this cancellation occurred only days after installation of the new Government and asserted that the station director should have discussed the program with its producers if he disagreed with its content.

In November the National Press Union reported that PRD leaders, including one from the Secretariat of Youth and another from the National Lottery, beat a journalist in Hato Mayo, who broadcast a radio program critical of the PRD. In the same month, in Moca, a provincial official of the Secretariat of Education punched a correspondent of the daily newspaper El Nacional when he asked the official about problems with the national school lunch program. Also in November, a correspondent from the El Siglo newspaper was sued for slander and detained for 2 days after he denounced the cutting of trees ordered by the vice mayor of Constanza. The charges later were dropped.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 100,000 mostly part-time students, has few restrictions on enrollment and maintains a policy of nonintervention (other than on curriculum development) in classroom affairs. The Government exerts no control over private universities, except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and the Government generally respects 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 grants; however, the police used force to break up demonstrations on several occasions throughout the year. The Government responded with force to disperse demonstrators calling for completion of public works projects, opposing evictions, or supporting a strike. During transportation strikes in the first 4 months of the year, police used force to disperse union members; others were arrested and detained without charges for several days.

The police used force to disperse demonstrators. News reports and human rights organizations criticized the manner in which police used force to disperse demonstrators in Batey 5 in Barahona in mid-year. Protesters gathered to call for compliance with a promise to finish installation of electricity made 4 years ago by the governor of the province. There were reports that police indiscriminately launched tear gas into homes; several children had to be taken to hospitals due to the effects of the gas. According to the Dominican Human Rights Committee, the police on several other occasions used force to remove squatters from Punta Villa Mella, Valiente, La Toronja, and Vallo Lindo, state-owned lands near the national district (Santo Domingo and environs).

In a December interview with the newspaper Hoy, the Secretary of Interior and Police admitted that the police committed abuses when responding to several public marches and demonstrations in late November. These protests were largely in response to the Government's package of economic proposals. On November 16, a police lieutenant and four others were wounded by bullets and rocks in the confrontation between high school students and police in the town of Licey. National news media reported that the police repelled the students with tear gas. Student leaders told reporters that the police came into the school and arrested and beat several students. The police have promised an investigation into the protests.

On November 24, former President Leonel Fernandez and numerous other PLD leaders were involved in confrontations with the police when the PLD officials marched to the offices of the Public Ministry to protest the arrest of four high-level PLD members on corruption charges. The police used tear gas against the marchers and prevented Fernandez from entering the building. He and several others were overcome by the gas and taken to nearby hospitals.

On November 29, the "black helmet" unit of the police interrupted a march to the National Palace by groups of student, chauffeur, and social organizations who were also protesting the economic reform package. Police repelled demonstrators with tear gas and rubber bullets and detained more than 170 demonstrators. Organizers of the demonstration, including Human Rights Committee president Virgilio Almanzar, claimed that the police denied their right to freedom of assembly.

There were no reports of the use of the criminal charge "association with criminal elements" to stifle political dissent this year. Under former President Balaguer, the authorities traditionally used this charge against dissidents and those involved in street demonstrations against the Government.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Political parties frequently affiliate with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relationships with counterpart organizations.

*c. Freedom of Religion.*—The Constitution prohibits discrimination on religious grounds, and many religions and denominations are active. The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The Catholic Church, which signed a concordat with the Government in 1954, enjoys special privileges not extended to other religions. These include the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country. The attendance at Catholic Mass for members of the National Police is compulsory.

In July then-President Fernandez signed a law making Bible reading in public schools obligatory. This new law added Bible reading to the weekly flag raising and singing of the national anthem in public schools. Private schools are not obliged to include Bible reading as part of their weekly activities.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons, and the Government generally respects these provisions in practice; how-

ever, there were some exceptions. Citizens face no unusual legal restrictions on travel within or outside the country. Local and international human rights groups cited discrimination against Haitian migrants, whom they said were subject to arbitrary and unilateral action by the authorities.

Haitians continue to migrate in great numbers to the Dominican Republic, some legally but most without legal documents, in search of economic opportunity. Some illegal migration is assisted or sanctioned indirectly by the authorities, especially by police and military in the border areas, who profit from the illegal traffic. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. In December the Directorate of Migration reported that 12,500 Haitians were repatriated during the year; however, a later report issued by the armed forces stated that they had deported 36,362 Haitians between August 16 and the end of the year.

In many cases, the Government denied those deported the opportunity to demonstrate that they were legal residents in the country or to make arrangements for their families or property. Haitian Government officials complained that Haitians often were detained with little or no food and then deported without timely notice to the Haitian authorities. Human rights organizations and the media continued to report many instances of violent treatment of Haitian migrants by the authorities.

On July 18, in Guayabin, on the northern border with Haiti, military agents shot and killed 6 Haitians and 1 Dominican citizen and wounded 13 others after they crossed the border illegally in a truck. The truck had sped through several military checkpoints, and members of the military pursued it until it crashed. Controversy exists as to whether the military personnel knew that the truck was filled with immigrants when they fired at it. A Commission with members from Haiti and the Dominican Republic was established to investigate the incident. The officers reportedly were tried in a military court, given letters of reprimand, and returned to military service.

On August 13, a 30-year-old Haitian died after he was taken into custody by soldiers in La Canada, near Hondo Valle, a border town. According to newspaper reports, he entered the country illegally and was detained along with two other illegal migrants; soldiers allegedly beat him to death. The Commander of the Third Brigade of the army arrested the soldiers involved in the homicide and promised a quick investigation.

On November 7, soldiers in the Department of Border Investigation Operations shot and killed a Haitian under questionable circumstances at the Elias Pina border crossing point. Investigations of killings of civilians at the hands of military, similar to killings at the hands of police, lack transparency. At year's end, there was no information about an investigation into this case.

On March 6, the IACHR held a hearing in two 1997 cases of two Dominican-born children who have been denied birth registrations. The mothers of both children are Dominican citizens of Haitian descent. The law in question is Law 6-59 on Civil Records, and the legal issue in the case is the denial of the right to register a late declaration of birth. The cases were still pending at year's end.

On August 8, the Inter-American Court of Human Rights heard a case presented by the Dominican Center for Justice and International Law (CEJIL), Dominicans 2000, Human Rights Watch, the International Human Rights Law Clinic, and other international human rights organizations, alleging that massive expulsions, repatriations, and deportations of Haitians and Dominican-Haitians by the Government violated international human rights law. The Inter-American Court considered general concerns about "mass expulsions" and "forced repatriations" carried out by the Ministry of Interior and Police, as well as nine individual cases of persons who allegedly were expelled forcibly without opportunity for due process. The Court did not address the case of the six Haitians killed in Guayabin.

On August 18, the Court rendered its decision, laying out "provisional measures" for the future treatment of Haitians, and specific relief and protection of the nine individuals. It did not require immediate broad-based accountability of the migration authorities for enforcement of border agreements reached with Haiti in December 1999. These agreements set out a systematized deportation procedure in which Haitian authorities would be advised of potential deportations, deportees would be given opportunities for legal hearings (to present proof of legal status in the country), as well as opportunities to advise family members and collect belongings. Rather, the Court requested that the Government provide more detailed information about the condition of individuals in the border "bateyes" (shantytowns) who potentially are subject to forced expulsions. It also asked for a government report every 2 months on provisional measures that are expected to be adopted to comply with the Court's decision.

The ongoing process of repatriating Haitian citizens did not diminish after the Court's decision in August. NGO representatives working in rural areas reported that decisions to deport often were made by lower ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. The Director of Migration stated that the process of rounding up illegal Haitians is performed by the rank and file of the armed forces and migration officers. They approach persons who look like Haitians, including persons who have very dark complexions and fairly poor clothing. They engage them in conversation about their work and residence, mainly to check their use of Spanish and any accent they may have. If such persons speak Spanish poorly or with a noticeable accent, they generally are detained and deported.

The Haitian Government protested the failure to give detainees an opportunity for a hearing on their claim of citizenship or right to residence, although it acknowledges the Government's right to deport those individuals who are illegal aliens. NGO's and Catholic priests familiar with the process also have protested that children born of one or two Haitian parents in the Dominican Republic, heretofore denied registration as Dominican citizens, frequently are among those deported as illegal Haitians.

While the Government has a policy of strictly enforcing documentary requirements and repatriation for those found lacking, it appears to have an unofficial policy that is more tolerant, which is fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. Thus, after being stopped as a suspected illegal Haitian migrant, an individual may be allowed to remain in the country despite his lack of documents if his story about work satisfies the official who stopped him. NGO's have reported corruption among the military and migration border officials, and noted that these officials sometimes cooperate with the transit of Haitian workers into the country. However, in December the Director of Migration reported that the need for Haitian labor is generally filled by Haitian migrants already in the country.

According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs. The Subcommittee, which makes a recommendation to the Commission, is made up of members from the Foreign Ministry, the DNI, and the Immigration Directorate. The Commission, which makes a final decision on the application, consists of the three members of the Subcommittee; the legal advisor to the President; and members of the PN, the Ministry of Labor, and the Attorney General's office. There is no functioning National Office of Refugee Affairs, and the National Commission for Refugees, an office of the Foreign Ministry, has not met since 1993. However, the Subcommittee makes recommendations, and the Immigration Directorate issues documentation to refugees certified as such by the U.N. High Commissioner for Refugees (UNHCR). While these documents are accepted routinely by the police and immigration officials, the process by which they are issued does not comply with the decree. During the year, 43 refugee applications (30 of which were from Haitians) were submitted. Of those, the UNHCR recognized 14 and refused 5; 17 were pending and 5 were abandoned. There were no reports of repatriation or refoulement of persons claiming refugee status.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement. There were several cases in which the Government offered political asylum to refugees and their families fleeing war-torn countries.

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

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Citizens exercised this right in free and fair presidential elections in May. Voters gave the PRD 49.87 percent of the vote, while the DLP received 24.94 percent, and the Social Christian Reform Party (PRSC) received 24.6 percent of the vote. The Constitution requires 50 percent plus one vote for a candidate to be elected to the presidency; however, if the second-place candidate concedes, as happened in May, the Central Electoral Board (JCE) may declare the first-place candidate the winner without a second round of elections.

The President and all 179 members of the Senate and the Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, active duty police and military personnel may not vote. In practice, voting is limited to those persons who can show a national identity document, which requires that their births were registered properly by their parents.

There was a significant controversy about the ability of the JCE to issue new national identity cards to the voting population prior to the May elections, and there were serious allegations by the PRD that the PLD intentionally was sabotaging its supporters' ability to vote. Ultimately, the Board was able to issue cards to most voters who applied for them. However, there were numerous reports, including allegations by supporters of the PRD, that identity cards were being taken or "bought" from dark-skinned individuals so that they would not exercise their right to vote.

Election campaigning was relatively peaceful, although there were isolated instances of violence. On April 29, two PLD activists were killed in Moca during a PRD campaign rally. PLD members claimed that PRD supporters shot into a group of PLD flag wavers. In contrast, PRD supporters argued that PLD opposition members were trying to "ambush" their presidential candidate's motorcade. There was also political violence in San Pedro de Macoris at the end of April in which a vice mayor and secretary general of the PRD were wounded by gunfire when their party was carrying out a medical mission in one of the neighborhoods. During the August 16 election, an argument between political rivals reportedly led to the fatal shooting of an unidentified man in San Juan de la Maguana.

The nation has a functioning multiparty system. Opposition groups of the left, right, and center operate openly. The President often dominates public policy formulation and implementation. He can exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. Former President Fernandez reduced the reliance on rule by decree during his administration. The President appoints the governors of the 29 provinces.

Congress provides an open forum for the free exchange of views and debate. The main opposition party is the PLD, which holds 4 of 30 seats in the upper house and 49 of 149 seats in the lower house. A third major party, the PRSC of former President Balaguer, contests all elections; various smaller parties are certified to contest provincial and national elections.

The JCE conducts all elections. In April 1999, the leading political parties agreed that the Congress should approve legislation expanding the JCE from five to seven members until after the May presidential elections. The PLD and the PRSC each nominated one new member to join the board.

There were no reports of disturbances surrounding the Dominican Municipal League (LMD). It functioned normally, albeit with diminished legitimacy, due to the exclusion of PRD candidates from the 1999 election for LMD president.

Women and minorities confront no serious legal impediments to political participation; however, they are underrepresented in government and politics. By law parties must reserve 33 percent of positions on voting lists for women; a proportion that is to increase to 40 percent in 2002. However, the parties often place women so low on the lists as to make their election difficult or impossible. With the election of former Senator Milagros Ortiz-Bosch to the vice-presidency, there is only 1 woman in the 30-member Senate; women hold 24 seats in the 149-member Chamber of Deputies. Women continue to be represented in appointed positions, albeit to a limited degree. The President of the Chamber of Deputies is a woman, as are two cabinet secretaries. Women fill 5 of the 15 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 operate freely without government interference. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (dealing with the Narciso Gonzalez case), several Haitian, church, women's, and labor groups exist.

The Government established the Reform Commissions for the police and armed forces in the latter part of the year, and allowed limited civil society or NGO representation. The most credible human rights and civil society organizations are not represented. At year's end, there was no public information available nor discussion in civil society about the objectives of the two reform commissions.

There is no ombudsman's office. However, at year's end, legislation was pending in Congress to create a human rights ombudsman's office as well as a special prosecutor for human rights abuses.

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

The law prohibits discrimination based on race and sex; however, such discrimination exists, the Government seldom acknowledges its existence or makes efforts to combat it.

*Women.*—Domestic violence is widespread. 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 one year to 30 years in prison, and have fines ranging from \$30 to \$6,000 (500 to 100,000 pesos). The State can prosecute a suspect for rape even if the victim does not file charges. This law also allows a rape victim to press charges against her husband without having her marriage annulled. The Secretariat of Women, as well as various NGO's, have outreach programs on domestic violence and legal rights. In 1998 the Government opened a center in Villa Juana (National District) for the legal support and forensic examination of abused women, which handled 35 to 50 cases per day in its first year. Since its opening, it has handled over 7,000 cases and now averages 60 to 90 cases per day. Due to the success of this first center, the Government opened two additional centers during the year in San Francisco de Macoris and Santiago. The Ministry of Women has begun a project, in coordination with a local NGO, to open a fourth Services Center for Victims of Domestic Violence in San Cristobal. At year's end, there were still no shelters for battered women.

Rape is a serious problem and is believed to be widely underreported. From January through October, the Santo Domingo district attorney's office received only 203 reports of rape in the National District. The penalties for committing rape are 10 to 15 years in prison and a fine of \$6,097 to \$12,195 (100,000 to 200,000 pesos). Victims often do 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 are reluctant to handle rape cases and often encourage victims to seek assistance from NGO's.

Sexual harassment is widespread.

Prostitution is illegal; however, the Government does not enforce vigorously prostitution laws, except in cases involving child prostitution and international trafficking in women and girls, which is a serious problem (see Sections 6.c. and 6.f.). Sex tourism is a growing industry throughout the country as the number of international visitors increases. NGO's have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, as well as for hotel and industrial zone workers. The 1997 Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government has used the law to prosecute third parties that derive profit from prostitution.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or opportunity with men, and men hold the majority of leadership positions in all sectors. In many instances women are paid less than men in jobs of equal content and equal skill level. Some employers reportedly give pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates report that pregnant women often are not hired.

*Children.*—Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The Oversight Organization for the Protection of Children, created by the executive branch, is the primary government institution covering issues of child welfare. Private institutions receive 35 to 40 percent of the budget of the Oversight Organization. The Mejia administration created a new Ministry of Youth soon after the election.

The 1994 Minor's Code requires 8 years of formal education. The Oversight Organization works with NGO's, law enforcement personnel, and the general public to publicize children's rights. In the National District, the Department of Family and Children, in the Office of the Prosecutor, administers the Minor's Code and arranges conciliation of family conflicts to execute court decisions with respect to child protection, and to interview children whose rights have been violated.

Abuse, including physical, sexual, and psychological, is the most serious human rights violation affecting children. The Department of Family and Children estimates that 50 percent of the children in the country are victims of some sort of abuse. No statistics were available from the National Police's Department of Sexual Abuse regarding rapes of children between 4 and 11 years of age, and few such cases reached the courts. In 50 percent of the cases, the accused is a person close to the child: a father, grandfather, uncle, brother, cousin, or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a pen-

alty of 10 to 20 years incarceration and a fine of \$6,600 to \$13,200 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

Typical cases of child abuse include that of a 4-month-old child whose arm and rib were broken by his parents. The child was separated from his parents and sent to a shelter until the parents completed required counseling and psychological treatment. An 8-year-old child's father burned his child's hand after the child was caught stealing. There also have been reports of children being left tied up and without food in their homes while their parents go to work. The law prohibits the press from reporting on all cases of child abuse, which results in a diminished public perception of it.

The Minor's Code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse is receiving increasing public attention.

The Ministry of Health gave conservative estimates that, from January through October, there were 887 deliveries by female adolescents under age 15, and 15,491 deliveries by adolescents between the ages of 15 and 19. This information is preliminary and conservative in light of 1999 statistics, which estimated deliveries by adolescents below age 15 at 1,529, and by adolescents from 15 to 19 at 33,332 for that full year. Many of these pregnancies were reported to be the result of rape or incest and often are accompanied by sexually transmitted diseases.

Some in the tourist industry have facilitated the sexual exploitation of children; particular areas of concern are Boca Chica and Puerto Plata. Tours are marketed by foreigners overseas with the understanding that boys and girls can be found as sex partners. According to an official in the District Attorney's Office, the Association of Hotels has asked to participate in government initiatives to combat the exploitation of children in the tourist industry. Journalists reported that the majority of prostitutes in brothels visited around the National District appeared to be between 16 and 18 years of age. There are several church-run shelters that provide refuge to children who break free from the prostitution trade. Prostitution is the principal area of exploitation of underage girls in the informal economy. The Oversight Organization carried out community information campaigns on children's rights, including the prevention of child abuse, child labor, and family violence. It also provided training to persons and groups providing social services to children, judicial officials, and other children's advocates.

Poor adolescent girls and boys sometimes are enticed into performing sexual acts by the promise of food or clothing; sometimes they are forced into unsafe relationships with strangers by the need for money. Once involved, they may be held against their will by individuals who sell their sexual favors to others. Some of these minors are lured from their parental homes; others are already on the street.

Trafficking in girls is a serious problem (see Section 6.c. and 6.f.).

The judicial system sometimes fails to protect the status of minors in criminal cases. The authorities sometimes treated minors as adults—most often when physical forensic examinations indicated that the person claiming to be minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. In 1997 the Government began implementing the 1994 Minor's Code, laying the groundwork for a juvenile court system. The Supreme Court inaugurated the first of 11 juvenile courts in August 1999 and chose judges for the other 10 courts, some of which were functioning by year's end. Although these juvenile courts are organized with a focus on rehabilitating offenders, very few social services are available for minors. In practice, juveniles are detained in excess of the time permitted by law, and then are sent to jail rather than referred for rehabilitative services. There are legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases.

Child labor is a problem (see Section 6.d.). It is not uncommon for minors to be put on the street to fend for themselves as younger siblings claim the parent's meager resources. Homeless children called "palomas" (doves) are frequently at the mercy of adults who collect them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they are given basic housing. The ages at which these children work, the hours they put in, and their failure to comply with compulsory school attendance all violate the law, but the Government has not been able to combat this practice.

*People with Disabilities.*—Disabled persons encounter discrimination in employment and in the provision of other services. Although the law provides for physical access for the disabled to all new public and private buildings, the authorities have

not enforced this law uniformly. There is a Subsecretariat for Rehabilitation under the Ministry of Public Health, a recreation center for the disabled in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for the disabled. However, there is little consciousness of the need to make the daily lives of the disabled safer and more convenient. For example, new street construction makes few provisions for the disabled to cross the streets safely.

The Dominican Rehabilitation Association (ADR) has grown from a 1-room operation to a large complex with 17 affiliates throughout the country. It provides services for 2,500 persons daily. The Government provides about 30 percent of the ADR's budget. The Government also distributed 25,000 wheelchairs donated by a foreign athletic team.

*National/Racial/Ethnic Minorities.*—A strong prejudice against Haitians runs through society and disadvantages many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African descent. The Government has not acknowledged the existence of this discrimination nor made any efforts to combat it. Darker-skinned Dominicans also face informal barriers to social and economic advancement.

Efforts to stem the influx of Haitian immigrants have made it more difficult for those Haitians already in the country to live peacefully. Police regulations threaten those offering transportation to illegal immigrants with confiscation of their vehicles, and have discouraged taxi and bus drivers from picking up dark-skinned persons. In roundups of illegal immigrants, authorities pick up and expel darker Dominicans as well as legal Haitian residents.

Perhaps 500,000 Haitian immigrants—or 7 percent of the country's population—live in shantytowns or sugar cane work camps, in harsh conditions with limited or no electricity, running water, or schooling. There are estimates that as many as 1 million Haitians live in the country. Human rights groups regularly charge the Government with unlawful deportations of, and police brutality toward, these legal and illegal immigrants (see Sections 1.d and 2.d.).

Credible sources also charge that the Government refuses to recognize and document as Dominican citizens many individuals of Haitian ancestry born in the country. Since many Haitian parents have never possessed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result, they cannot declare their children's births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declarations of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents.

Haitian parents encounter difficulties registering their children for school. Lack of documentation usually deprives children of Haitian descent of the opportunity to attend school where there is one available. Some parents fail to seek documentation due to fear of being deported. It falls to the discretion of public school principals whether children may attend, when immigrant parents have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the children of Haitian parents progress beyond sixth grade.

Sometimes poor Haitian families arrange for Dominican families to "adopt" and employ their children. The adopting parents can simply register a child of any age as their own. In exchange, the parents receive monetary payment or a supply of clothes and food. They believe that this ensures their children a more promising future. In many cases, adoptive parents do not treat the adoptees as full family members and expect them to work in the households or family businesses rather than attend school. The effect is a kind of indentured servitude, at least until the young person reaches 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.

The Government is doing little to improve the conditions of Haitian immigrants. Most social services in shantytowns are provided by NGO's and other relief organizations.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the freedom to organize labor unions and for the right of workers to strike (and for private sector employers to lock out workers), and workers in all sectors exercise this right. All workers, except the military and the police, are free to organize. Organized labor represents an estimated 10 percent of the work force and is divided among four major confederations and a number of independent unions. There are approximately 190 registered unions in the country. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The Code calls for automatic recognition of a union if the

Government has not acted on its application within 30 days. In practice, the Government readily facilitates recognition of labor organizations.

Unions are independent of the Government and generally independent of political parties. The law against companies who fire union organizers or members is enforced selectively, and penalties are insufficient to deter employers from violating worker's rights. There were reports of widespread discreet intimidation by employers in an effort to prevent union activity. This is apparent particularly in the FTZ's where foreign companies have located in search of low labor costs and little interference in their operations. For example, unions in the FTZ's in San Pedro de Macoris report that their members hesitate to discuss union activity at work, even during break time, due to fear of losing their jobs.

Requirements for calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. The Government generally respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws is sometimes unreliable, inhibiting employees from freely exercising their rights.

In May nurses belonging to the National Union of Nursing Services and the National Union of Dominican Nursing Services unions went on strike to protest non-compliance with terms that the Ministry of Health agreed to in 1997. Issues of contention included a pay raise and a demand for hospital equipment. Sugar workers struck in La Romana in August to protest the company's failure to make bonus payments. Transportation workers struck in the Puerto Plata in September to protest rising fuel costs.

G & K Services, a company in San Isidro, fired 20 union members in April. No judicial action was taken because the company paid severance pay to the workers. A court judgment in April ordered Dennis Fashions, Inc., which had been closed since 1998, to provide severance pay to its 352 unionized employees. The company failed to comply with the judgment. A total of 350 unionized workers of Euromodas in Cristo Rey filed a lawsuit to collect severance pay after the company closed in 1998. In January the court ruled that Euromodas had to pay the workers; however, the company no longer exists. The owners of Euromodas opened a new company during the year, and in June former employees protested outside the new factory. Protesters were dispersed by the police, who arrested 35 of them and held them for 2 days without charges before releasing them.

In November 1999, employees of the FTZ company D & P Handbag in Santiago formed a union and filed the register of union members with the Director of Labor. This register was rejected because the Director General of Labor claimed that it did not contain the requisite number of members. In January the Ministry of Labor reversed this decision; however, the company did not permit formation of a union. At year's end, the case was still pending before a labor court in Santiago.

On December 29, 1999, the Supreme Court issued a judgment against Han Chang company. It upheld the decision of the lower court that the work contracts of five union leaders fired in 1995 were valid. The Court ordered that the workers be reinstated and paid back wages. The Bani company has failed to comply with the decision and the National Federation of Free Trade Zone Workers (FENATRAZONA) has asked for the cancellation of the company's export license. Legal authority to cancel export licenses lies with the National Council of Free Zones and is dependent on a request from the Ministry of Labor. The Ministry of Labor reported that this case was being mediated.

Labor unions can and do affiliate freely regionally and internationally.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is legal and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts, and the International Labor Organization considers the requirements for collective bargaining rights to be excessive and finds that in many cases they could impede collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, workers sometimes are fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases do make their way through the labor courts, enforcement of judgments is sometimes unreliable.

The Labor Code applies in the 40 established FTZ's, which employ approximately 200,000 workers, mostly women. Workplace regulations and their enforcement in the FTZ's do not differ from those in the country at large, although working conditions are sometimes better and the pay is higher. Some FTZ companies have been

accused of discharging workers who attempt to organize unions, but there also have been reports of union organizers extorting money from business owners. In the FTZ's, while there may be as many as 10 collective bargaining agreements on paper, only 3 actually are functioning. The majority of the unions in the FTZ's are affiliated with the National Federation of Free Trade Zone Workers or the United Federation of Free Trade Zone Workers.

Many of the major manufacturers in the FTZ's have voluntary "codes of conduct," that provide for protection against forced labor, freedom of association, freedom from discrimination, and prohibit the use of child labor. They also call for a workplace that is safe and healthy. However, workers rarely have heard of such codes, or the principles they set out.

Tortoni Manufacturing closed its doors in April after unionized employees told management they wanted a collective bargaining agreement. New investors reportedly took control of the company, renamed it Gramerci Dominicana (a subsidiary of Andover) in July, and committed to pay the employees their severance pay. As of December 8, through mediation by the Secretariat of Labor, the employees were reinstated and had received the first of two installments of severance pay.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forms of forced or compulsory labor, including that performed by children; however, such practices still exist to a limited extent in the adult worker population and, to a limited extent, among children in the informal sector. Young children "adopted" by families work under a kind of indentured servitude and homeless children are made to beg by adults (see Section 5). Trafficking in women and girls for purposes of prostitution is also a problem (see Sections 5 and 6.f.). The FENATRAZONA noted that there were over 40 reports of coerced overtime in factories. Workers gave examples of their employers locking factory doors with chains so they could not leave, and taking incentive pay away from or firing those who refused to work overtime. Union officials state that newly hired workers are not informed that overtime is optional. The Association for the Development of Women and the Environment reported several instances of forced adult labor in the sugar industry in the shantytowns of La Jagua, Sabana Grande de Boya, and Los Jovillos. Field guards reportedly kept workers' clothes and documents to prevent them from leaving. In January a field guard in Los Jovillos broke a worker's arm when he tried to leave.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits employment of children under 14 years of age and places restrictions on the employment of children under the age of 16. These restrictions include limiting the daily number of working hours to 6, prohibiting employment in dangerous occupations or in establishments serving alcohol, and limiting nighttime work. A company could face legal sanctions and fines if caught employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. The law requires 6 years of formal education. Children who do not continue in school often seek illegal employment before reaching the minimum working age (see Sections 5 and 6.c.).

In August FENATRAZONA criticized the Overseas Manufacturing Corporation, in the FTZ in San Pedro de Macoris, for employing underage workers in the production of computer components. The Ministry of Labor carried out two investigations and found no workers under age 16. (FENATRAZONA asserted that the inspectors were denied entry on their first visit and that when they returned, the children had been removed. The Secretariat of Labor denied this version and said that the inspectors were never denied entry.) At the end of August the company was operating with only 20 workers, rather than the normal force of 60 to 80. According to the owner, the company was undergoing a work "slow down" due to lack of primary materials. At year's end, the company reportedly had closed.

The high level of unemployment and lack of a social safety net create pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children begin working before the age of 14. Child labor takes place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories are generally poor, unsanitary, and often dangerous. The Government largely has eliminated the use of children for cutting sugar cane; however, there are still reports that poor Haitian and Dominican children accompany their parents to work in the cane fields, with the tacit acceptance of sugar companies.

Sexual exploitation of children is a problem (see Section 5).

The Ministry of Labor, in collaboration with the International Labor Organization's Program on the Eradication of Child Labor, and other international labor rights organizations, has implemented programs to combat child labor. These include a national child labor survey; a program to remove children from dangerous agricultural work in San Jose de Ocoa, Constanza, and Azua; and an upcoming pro-

gram in the area of child prostitution in Boca Chica and Puerto Plata. By November the Constanza program removed 500 children, twice as many as the targeted number, from work in hazardous agriculture, and placed them in schools.

The law prohibits forced or compulsory labor by children; however, such practices persist in the informal sector (see Section 6.c.). There were no reports of forced child labor in the formal sector.

*e. Acceptable Conditions of Work.*—The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary is \$135 (2,222 pesos) in the FTZ's and ranges from \$107 (1,757 pesos) to \$176 (2,895 pesos) outside the FTZ's depending upon the size of the company and the nature of the business. The minimum wage does not provide a decent standard of living for a worker and family. It only provides approximately one-third of the income necessary to sustain an average family. The national poverty level, which is based on a basket of goods and services consumed by a typical family, is \$402 (6,607 pesos) per month for a family of five.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half day on Saturday, but longer hours are 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.

Conditions for agricultural workers are poor, especially in the sugar industry. Most sugar cane worker villages have high rates of disease and lack schools, medical facilities, running water, and sewage systems. On sugar plantations, cane cutters usually are paid by the weight of cane cut rather than the hours worked. Employers often do not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dries and weighs less.

When the cane is weighed, workers are given tickets indicating the weight of cane cut (often rounded in favor of the employer) and the amount of money due. These tickets, issued to a specific person but payable to the bearer, may be turned in to the employer and redeemed for cash every 2 weeks. Many cane cutters earn less than \$4.00 (60 pesos) per day. Because workers earn so little and sometimes cannot wait until payday to redeem their tickets, an informal barter system has evolved in which the tickets also are used to purchase items at private stores located on the plantations. These private stores make change by giving back a combination of tickets and cash. However, it is not unusual for these stores to retain 10 percent of the cash due a customer.

The Dominican Human Rights Committee and batey residents report that conditions of work for cane workers have deteriorated since the industry was privatized in 1999. Workers reportedly are paid less, work longer hours, and have fewer benefits, according to the Committee. The Dominican Association of Sugar Technicians reported that before the October 1999 privatization of the industry, there were approximately 32,000 sugar industry workers, compared to approximately 3,200 at year's end. While child labor in the sugar industry has decreased significantly, it still exists according to human rights advocates and labor federations (see Section 5).

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. The existing social security system is seriously underfunded and applies to only about 9 percent of the population. Approximately 13,000 employees work in the IDSS bureaucracy to support fewer than 20,000 retirees.

Both the IDSS and the Ministry of Labor have small corps of inspectors charged with enforcing standards. The Secretariat of Labor has 250 inspectors who seek to improve sanitation, health care, and safety for workers. Included in this number is a smaller, specialized corps (eight in the National District) of inspectors for the FTZ's. Inspector positions customarily are filled through political patronage, and bribes from businesses are common. In practice, workers cannot remove themselves from hazardous working situations without jeopardizing employment (see Section 6.b.).

For example, an FTZ in Bonao, Bi Bong Apparel, fired several workers who, displeased with the safety of work conditions, cut wires to stadium lighting under which they were forced to work. In March the Labor Court held that the company should not have fired the workers and ordered an inspection. The Department of Hygiene and Safety carried out an inspection of the lighting, drinking water, bathrooms, and ventilation. According to the Ministry of Labor, inspectors found irregularities and made a series of recommendations. In November the workers returned to their jobs.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and a 1998 alien smuggling law increased the penalties for those found guilty of various phases of this crime; however, trafficking in women and children from, to and within the country remains a serious problem. The penalties for trafficking are 3 to 10 years in prison, or, if there is a death, 10 to 20 years in prison, plus punitive damages.

Laws dealing with domestic violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to, or acts that may be a part of, the traffic in persons, whether female or male, minors or adults. The law also prohibits acting as an intermediary in a transaction of prostitution, and the Government has used this law to prosecute third parties that derive profit from prostitution.

The Directorate of Migration estimates that there are approximately 400 rings of alien-smugglers, traffickers, and purveyors of false documents operating within the country. These individuals profit by facilitating the trafficking of women to Europe and the Eastern Caribbean under false pretenses and for purposes of prostitution.

In 1996 the Government created the Interinstitutional Committee for the Protection of Migrant Women (CIPROM); however, this organization ceased functioning due to lack of funding. One NGO, the Center for Integral Orientation and Investigation (COIN), counsels women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues including the dangers of trafficking, forced prostitution, and domestic servitude. The program also provides services to returning women. COIN administers the Center for Health and Migration Information for Migrant Women that carries out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. It also provides a information hotline and offers psychological, legal, and health counseling to returning women.

In January two journalists from the Spanish newspaper, *El Mundo*, made public a documentary that exposed a ring of traffickers of women to Europe. The ring included foreigners as well as local officials. The authorities arrested one military officer and deported one Dutch citizen. In July the Public Ministry dismantled a house of prostitution in which the majority of the prostitutes were from Europe and Russia. The leader of the operation, as well as the women themselves, fled the country before they could be prosecuted.

From January through August, the authorities dismissed 42 immigration employees for links with groups trafficking in persons. In addition authorities have charged at least 45 persons for allegedly organizing illegal trips under the 1998 anti-smuggling law. Of these, 30 persons were tried and 15 were convicted. Their sentences range from 3 to 5 years in prison. At year's end, 15 cases were pending.

The Oversight Organization for the Protection of Children coordinates the approaches of various agencies involved in combating trafficking in children, whether for adoption, sexual exploitation, or other purposes. This organization works with the Attorney General's office, the Public Health Ministry, Migration, and other agencies. In the National District, the Department of Family and Children in the Office of Public Prosecutor focuses on identifying children who are victims of abuse and prosecutes offenders under heightened penalties contained in the domestic violence law.

A primary concern of the Oversight Organization is preventing abuse of the child adoption process by those intending to sell or exploit children through prostitution or child pornography. The Department of Family and Children is very concerned about kidnappings, especially of infants, for sale to foreigners who deliberately have sidestepped legal formalities—including those of their own country. The Government seeks to protect children from victimization under the rubric of adoption. Many children leave the country as adoptees, but government officials have made such adoptions much more difficult and, they hope, have prevented would-be traffickers from abusing the system.

Poor Haitian and Dominican parents sometimes arrange for more prosperous Dominican families to "adopt" their children, in exchange for money or goods. Such children often are not treated as full family members and are expected to work long hours in domestic service, agriculture, or industry under threat of corporal punishment and without compensation. Especially in the case of girls, these children often are abused sexually.

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## ECUADOR

Ecuador is a constitutional republic with a 123-member unicameral legislature that was chosen in free elections in May 1998. On January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion and the proclamation of a "People's Parliament" by the coup leaders, on January 22, Vice President Gustavo Noboa assumed the presidency and restored order. At the end of May the Government extended a full amnesty to all those who participated in the overthrow of Mahuad. The judiciary is constitutionally independent, but in practice is inefficient and susceptible to outside pressure.

The military enjoys substantial autonomy, reinforced by assured revenues from the country's oil exports, as well as from civil aviation, shipping, and other commercial sectors. The National Police are responsible for domestic law enforcement and maintenance of internal order and fall under the civilian Ministry of Government and Police. In early January, then-President Mahuad declared a state of emergency, which gave him the power to use troops to monitor and react to public protests. The state of emergency lasted 1 month in most of the country, and until March in Guayas province. Throughout the year, the military continued to supplement the police on an ad hoc basis. Some military officers were forced to resign for their role during the events of January 21, despite the blanket amnesty. The police and, in some isolated cases, members of the military, continued to commit abuses.

The economy is in a severe economic recession, although it began to improve slightly during the year. The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. The principal exports are oil, bananas, shrimp, and cut flowers, which are the country's leading sources of foreign exchange. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive, and underemployment is high. According to a 1999 study, approximately 62 percent of citizens live in poverty and 15 percent are indigent, with an almost total lack of resources. By the end of 1999, the incomes of approximately 56 percent of households were below the poverty line. The per capita gross domestic product (GDP) of \$1,053 provided most of the population with a low standard of living during the year. Per capita GDP was \$1,101 in 1999. In response to the recession, the Government announced in January that the country would adopt the U.S. dollar as its national currency and completed that process in September. Inflation for the year was 91 percent.

The Government's human rights record was generally poor in a number of areas, and serious problems remain. There were credible reports that police committed extrajudicial killings. Police tortured and otherwise mistreated prisoners and detainees, usually with impunity. Prison conditions remained poor. In August a law went into effect that is expected to either free or reduce the sentences of approximately 2,900 prison inmates for humanitarian reasons. Persons often are subject to arbitrary arrest and prolonged detention is a problem. Once incarcerated, persons may wait years before being convicted or acquitted. More than one-half of the prisoners in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The most fundamental human rights abuses stem from shortcomings in the politicized, inefficient, and sometimes corrupt legal and judicial system. The Government infringed somewhat on press freedom and some self-censorship continues. The Government declared states of emergency during the year that limited freedom of assembly and movement. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians also remain problems. The Government continued to order participants in nationwide strikes back to work, and arrested striking members of the National Teachers' Union. Child labor is a problem. Mob violence and killings persist.

## RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no confirmed reports of politically motivated killings; however, there continued to be credible reports that police committed extrajudicial killings. Through December the Ecumenical Committee for Human Rights (CEDHU) reported a total of 15 extrajudicial killings by the police, security forces, or semiofficial entities such as neighborhood brigades. However, during the same period, the Permanent Committee for Human Rights (CDH) reported 20 cases of extrajudicial killings by the same groups in Guayas province alone. (Neighborhood brigades are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. They are not au-

thorized to carry firearms, but often do.) In many of these instances, there was insufficient evidence to reach a conclusion as to what occurred; however, the killings sometimes exhibited a suspicious pattern.

On January 6, a crowd of residents from the evacuated town of Banos forced their way past a military roadblock in order to reoccupy their homes. (Banos had been evacuated due to the threat from a nearby active volcano.) A stray bullet fired by security forces struck and killed Edison Guato, and dozens of persons were injured during the melee (see Section 2.b.).

On May 13, in a remote northeast section of the Amazon near the Peruvian border, government security forces clashed with a previously unknown armed group calling itself the Revolutionary Armed Forces of Ecuador—Defenders of the People (FARE—DP). Two of its members were killed and five others were wounded and/or captured, including their purported leader, “Alex.” The authorities later maintained that the FARE—DP was criminal in nature and linked the group to a series of kidnaping and murder cases.

In Guayaquil on May 31, Guayas Transit Commission police reportedly shot 24-year-old civil engineer Cesar Matute nine times and killed him. Matute apparently failed to stop his truck at a police roadblock, thinking it was set up by robbers. The authorities suspended officers Alfonso Peasantos and William Jimenez. After an investigation by the fourth district police court, the two officers were exonerated and reinstated.

On June 5, in Guayaquil Special Operations Group police confronted a group of criminals that they were pursuing and killed seven persons; eight others reportedly escaped. Police stated that the robbers were armed heavily and strongly resisted arrest.

On August 28, in Portoviejo, police surprised 19 armed robbers attempting to hold up a local bank. Eleven of the gunmen were killed during the shootout and 8 escaped. Three policemen also were wounded. Police stated that all of the suspects refused to surrender. There was no investigation of the incident.

Also on August 28, in Guasmos Sur, members of an army patrol shot and killed Sergeant Carlos Lemos as he allegedly fled from them. Officials reported that Lemos had escaped 12 days earlier from a jail at the 5th Army Engineers headquarters where he was being held pending an investigation into the theft of rifles from an armory in Esmeraldas. Lemos’s lawyer and his family dispute the official version of events and claim that he was tortured and murdered. No official inquiry had been made by year’s end.

On December 4, 60-year-old Josefina Rios Murillos died after apparently being thrown from a police vehicle in Guayaquil. Her family said that the city’s recent “greater security campaign” had increased police brutality, and it has charged that Rios was struck on the head before being thrown out of the patrol car. At year’s end, the case was under investigation.

On February 9, the bodies of two men were found in different parts of Guayaquil. One was identified as a security guard mysteriously killed at a business from which nothing was stolen; the other was an unidentified individual whose corpse was dumped along the highway that circles the city. There have been other unsolved murders along this highway; for example, in May the bodies of John Merchan and Jacobo Moreira were found there—both had long criminal histories. Other bodies found on the highway include: On June 21, Adolfo Perez; on June 23, Francisco Pazmino; and on July 27, Angel Pacucar. Seven other bodies of suspected criminals also were found on the highway over a 4-day period in September. Some human rights groups suspect police involvement in these killings, but no investigation had been undertaken by year’s end.

In January a police court inquiry into the March 1999 killing of 14-year-old Mickey Mendoza concluded; the court charged policeman Carlos Alberto Iturralde Salazar with unintentional homicide. The court ruled that he had failed to maintain proper control of the weapon, which apparently went off when Mendoza tried to grab the gun. Iturralde was confined to police barracks pending trial. On January 13, the Mendoza family filed a dissent with the court asking that the second policeman on the scene also be tried, and that five policemen whom they believe conspired to cover up the incident be charged as accomplices. The charges were increased and, on July 17, Iturralde was found guilty of simple homicide; however, he was transferred to Cuenca and returned to full duty status pending the court’s issuance of a final decision. Late in the year, the authorities arrested Iturralde and jailed him pending the outcome of a sentencing hearing. Iturralde faces a sentence of up to 8 years’ imprisonment; however, the Mendoza family believes that the killing was premeditated and is seeking additional charges that would carry a longer sentence.

A court dismissed the case against Carlos Alulema, a policeman who shot and killed a cigarette vendor in July 1999 in Guayaquil, on the grounds that the police-

man was drunk and not responsible when he committed the crime. No information was available about the investigation into the killing by two police officers of Richard Morales Cabrera in November 1999 in Guayaquil, a shooting that also wounded several other persons.

The investigation continued into the February 1999 killing of Jaime Hurtado Gonzalez, an Afro-Ecuadorian member of Congress from the far-left Popular Democratic Movement (MPD) party; Pedro Tapia (Hurtado's alternate in the Congress); and Wellington Borja near the Supreme Court in Quito. The killings bore the hallmarks of a professional "hit," and the authorities have brought charges against several suspects, including police officers and a former police informant, in the killings. Several suspects were jailed and convicted, and their appeals were denied; at year's end, the investigation was still active.

There has been no disposition of the November 1998 kidnaping and killing in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. In December 1998, a municipal worker found Canar's body in a trash dump. His hands and feet were tied and his body showed signs of torture. The authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters.

There also were instances in which citizens took the law into their own hands, inciting mob violence that resulted in lynchings and burnings of suspected criminals (see Section I.e.). Mobs killed at least 14 crime suspects in the first 11 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, on August 13, in the indigenous community of Quilla Silla in Azuay province, local residents beat three men whom they accused of cattle rustling. As a result, 22-year-old Jorge Guanuci died, and two of his companions were injured seriously before firemen from a nearby town intervened.

Government officials reported the killings of 20 persons in the town of Lago Agrio during November and December. Most were killed execution-style as the result of conflicts between rival Colombian groups who had entered the country. In addition, in December another five persons were killed while travelling on a public bus outside of Lago Agrio when unidentified criminals blew up a section of the oil pipeline.

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

Criminal kidnaping for profit continued to be a problem. By mid-year the police antikidnaping unit reported 8 kidnaping cases and another 56 possible cases. On October 12, an unidentified armed group kidnaped a group of 10 oil workers near Pompeya, in Orellana province. The Government launched a major operation to find the victims and to investigate the perpetrators of this act. At year's end, eight oil workers still were being held.

*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. Reports of abuse increased.

The CEDHU published detailed reports on suspects who reported being tortured by specific policemen. By December the authorities had registered 33 complaints of some form of torture by security forces. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. By year's end, human rights nongovernmental organizations (NGO's) had received at least 135 reports of incidents involving physical mistreatment.

For example, on January 29, near Milagros, an 18-year-old woman accepted a ride and a drink from policeman Freddy Veloz. She later awoke from a state of unconsciousness in a remote area after having been raped. The woman lodged a formal complaint in court, but there was no disposition in the case by year's end.

On March 2, in Guayaquil, off-duty CTG Corporal Miguel Noriega, in an inebriated state, shot and wounded Anabel Villegas in the hand and leg. Noriega subsequently was arrested, and the case was pending at year's end.

On August 24, in Guayaquil, police shot and wounded off-duty fireman Xavier Barrero, in a case of mistaken identity. Once police discovered their mistake, they then left the scene without providing any assistance to Barrero. Eventually, the police admitted their error and paid his medical bills.

Police corruption is a problem throughout the country. During the year, the police in Guayaquil dismissed 20 police officers for various reasons that included corruption.

Conditions in prisons and detention centers generally continued to be poor. Prisons in the tropical coastal areas tend to be worse than in the temperate highlands. For example, the Tomas Larrea prison in Portoviejo was built in 1930 to hold 150

inmates, but its current population exceeds 300. It has never been repaired or expanded and has many tunnels, which have contributed to some of the 30 successful escapes since 1970. Overcrowding also is a chronic problem elsewhere. There are no separate facilities for hard core or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to lack of financial resources.

The Constitution requires that prisoners charged with lesser offenses (those carrying a maximum sentence of 5 years or less) and who have been detained for more than 1 year without a sentence obtain their freedom immediately. In January the National Directorate for Social Rehabilitation (DNRS) reported that 553 inmates had been released since the provision entered into force. On August 18, a law went into effect that is expected eventually to free or reduce the sentences of 2,947 prison inmates for humanitarian reasons.

In September 1999, the DNRS published a report that indicated that there were a total of 8,520 inmates incarcerated in facilities originally designed to hold a population of 5,964 prisoners. In 1998 a total of 26 inmates died in prison. The report stated that traumatic injuries, reportedly inflicted by fellow inmates, caused 65 percent of those deaths. It attributed the others to illness and drug use. The prison authorities routinely investigate deaths in custody. During the year, a number of prisoners experienced serious outbreaks of disease, including meningitis.

In September 1999, women represented 9.5 percent of the total prison population. Women are held separately from men, and conditions are notably better in the women's prison in Quito than in other facilities. There also are separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority; however, the authorities often violate these legal protections in practice, and arbitrary arrest and detention remain problems. For example, on January 28, in Azuay, the authorities arrested Maria Guatama, her daughter, and granddaughter; they spent a night in jail without any formal charges. The incident was traced to a disgruntled neighbor who apparently had friends on the police force. The family's release most likely was due to the fact that they could afford a lawyer.

The law requires the authorities to issue specific written arrest orders within 24 hours of detention—even in cases in which a suspect is caught committing a crime—and the authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions are brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period of time before being released. Bail generally is not available, and the law prohibits it in narcotics and major offense cases. Families of detainees sometimes attempt to secure the prisoners' freedom through illegal means.

Human rights organizations continued to report occasional cases of incommunicado detention, although the law prohibits this practice. Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Preventive 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.

As in the previous year, the authorities in Guayas Province arrested scores of persons under a state of emergency that was imposed from January until May. The measure was imposed to stem a soaring crime rate (584 persons died in violent crimes in the city of Guayaquil in 1999, and 104 kidnaping cases were registered.) The police often arrested persons on mere suspicion or for lack of proper identification; they released most of them a few days later.

The Constitution prohibits forced exile, and the Government does not use it as a method of political control.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is susceptible to outside pressure and corruption. Despite efforts begun in 1992 to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly depending on political pressure, or

in some instances, the payment of bribes. There are lengthy delays before most cases come to the courts.

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 Judicial Council. There also are military and police tribunals that have the same status as circuit courts, while criminal, provincial, and cantonal courts serve as courts of first-instance.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The 1998 Constitution placed both police and military justice under the control of the Supreme Court. However, the three systems have not yet been integrated.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In May 1998, the Supreme Court supervised the selection by open competition of all appellate judges. A Judicial Council, charged with administering the court system and disciplining judges, took office in the fall of 1998. In November 1999, the Council's disciplinary committee fired two judges and two court employees for their role in the release of suspected drug traffickers. All four faced criminal charges. During the year, the Judicial Council removed at least two judges and a number of minor officials from their jobs.

The failures of the justice system contributed to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by outraged citizens (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of major cities where there is little police presence.

The law provides for internationally accepted due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are almost no attorneys available to defend the large number of indigent suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest; however, in practice initiation of the trial phase can take years. Less than 40 percent of all those incarcerated have been convicted and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognition.

In November 1999, Congress passed a new Criminal Procedures Code. Then-President Mahuad proposed changes in December 1999, which Congress accepted in January. The code is scheduled to take effect in July 2001, and is intended to change the criminal justice system from an inquisitorial to an accusatorial-style system. The Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to change to that of neutral arbiters presiding over oral trials. The new code is a step toward implementation of provisions in the 1998 Constitution 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.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice; however, there were some notable exceptions. There are frequent charges of slander and libel brought by and against public figures, but few result in final decisions or judicial relief. On April 19, the President of Congress announced that press coverage of congressional proceedings would be restricted to an audio broadcast; following vigorous protest by the press, which formerly had enjoyed wide access to Congress, he announced that separate areas would be set aside for live coverage of sessions. Some self-censorship continues.

There is a free and vigorous press. Ownership of the media is broadly based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, 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 tend to reflect the narrow, regional interests of their owners.

All of the major media organs—newspapers, radio, and television—are locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government can and does require television and radio to broadcast government-produced programs featuring the President and other top administration officials.

On February 16, in Guayaquil, Rafael Cuesta, the news director of the Tele Centro television station was injured severely by a bomb contained inside a videocassette. Congresswoman Cinthya Viteri and indigenous leader Marco Murillo also received videocassette bombs in the mail; however, because of the Cuesta incident they were suspicious and alerted the police, who defused the devices. Police were unable to discover who sent the bombs.

Near the end of the year, the mayor of Guayaquil banned a guidebook that contained negative comments about the city.

The Constitution provides for academic freedom, and the Government does not interfere in issues involving 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. In February President Noboa decreed a nationwide state of emergency that lasted until March and limited freedom of assembly. Public rallies require prior government permits, which generally are granted, although exceptions occur. In January protesters took over the congressional building and, joined by military leaders, forced the resignation of President Mahuad (see Section 3). Numerous other labor and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads. On January 6, police in Quito and Guayaquil arrested 46 protesters, and in Quito 1 student was shot and injured; some protesters were armed, and the police denied responsibility. In general the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 6.a.). Police also used tear gas against protesting members of the National Teachers' Union. On April 17, members of the Evangelical Indigenous Movement (FEINE) and the Federation of Indians, Campesinos, and Blacks (FENOCIN) occupied the Government's Indigenous Affairs Office.

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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population consider themselves to be Roman Catholic, although most citizens do not regularly practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; private schools are permitted to teach religion, as are parents in the home. There are no restrictions on publishing religious materials in any language. In early 1998, police in Pinchincha suspended the meetings of a group known as "Gnostico Cristiano Universal," following the suicide of 29 members of the "Heaven's Gate" cult in California, while they investigated possible links between the two groups. The Government's investigation was inconclusive, and the groups have resumed their activities.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice; however, frequent military and police roadblocks often present problems for travelers using public transportation, especially at night. The Government requires all citizens to obtain exit visas when travelling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

According to the UNHCR, since September approximately 1,600 Colombian refugees arrived in the country, most of whom fled due to fighting between guerrillas and paramilitary forces in the Colombian department of Putumayo. The Government and the UNHCR have developed a three-point contingency plan to cope with the refugee influx into Sucumbios province. In November nine persons occupied offices of a Catholic Church in Quito that worked with the UNHCR to screen and register refugees. The occupation ended peacefully after 48 hours.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, on January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion during which the leaders of the coup announced the dissolution of the three branches of government and the formation of a "People's Parliament," on January 22, Vice President Gustavo Noboa assumed the presidency and restored order.

On January 19, approximately 6,000 persons including members of the Confederation of Ecuador's Indian Nationalities (CONAIE), students, and leftwing political protesters marched in Quito. On January 21, thousands of protesters, including members of CONAIE, students, teachers, and union members, occupied and took control of the congressional building in Quito. The police and military guarding the building did not oppose the occupation with force, and over 100 soldiers joined the protesters. CONAIE leader Antonio Vargas announced on television from the floor of Congress that he would head the People's Parliament. He also said that retired army Colonel Lucio Gutierrez would join him in a new "ruling junta" as the executive, and that former Supreme Court President Carlos Solorzano would take over the role of Supreme Court President. The protesters called for President Mahuad to resign. (There also were protests in Guayaquil, where a group of students, unionists, and neighborhood associations seized the provincial government building.)

President of Congress Juan Jose Pons described the small military group that joined the protests as "seditious" and called for support for the democratically elected Government. Mahuad then spoke on television and refused to resign. On the afternoon of January 21, the armed forces service chiefs and joint staff chief General Carlos Mendoza called for the President to resign. Mahuad resisted the call to resign but later fled the palace. The junta (also called the "triumvirate") originally was composed of Vargas, Solorzano, and Colonel Gutierrez. Later during the night of January 21, at the palace, General Mendoza briefly joined the junta, replacing Colonel Gutierrez. On January 22, President Mahuad appeared again on television and accepted Vice President Gustavo Noboa as president; on the same day, Congress ruled that Mahuad had deserted his post. With Noboa's assumption of office, order was restored.

On January 22, Congress sanctioned two of its members Democratic Left representatives (and former army generals) Paco Moncayo and Rene Yandun for their role in the coup and removed them from their seats in the Congress.

On February 4, General Norton Narvaez, the head of the armed forces, announced that a military court had found 113 soldiers, 17 of whom were in jail, guilty of breach of discipline and breaking their oath for taking part in the coup. They were put on administrative leave and confined to barracks. General Mendoza resigned.

On May 31, Congress approved an amnesty for army officers involved in the coup, and those held in prison were released. On June 5, the 17 most senior imprisoned officials were placed on 48-hour administrative leave. Colonel Gutierrez served 4 days in jail for a "breach of discipline," i.e., for his interviews with the press. On June 12, the military forced Colonel Gutierrez and 11 other officers to resign despite the blanket amnesty.

On July 13, Supreme Court President Galo Pico issued arrest warrants for former President Mahuad and his former finance minister for crimes in connection with the freezing of bank assets in March 1999.

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 per-

sonnel from election to Congress, the presidency, or vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, the party must be eliminated from the electoral registry.

In August a dispute arose over who had the right to be elected president of Congress. After a Constitutional Court ruling forced Susana Gonzalez from office following a challenge, Hugo Quevedo was elected. He later defeated a challenge to his own election and remained in office at year's end.

No specific laws prevent women or minorities from attaining leadership positions; however, few women, indigenous people, or Afro-Ecuadorians occupy senior positions in government. Women are underrepresented in politics and government, although they have made gains in recent years. Women hold 17 of 123 seats in Congress, the largest proportion of seats held by women in the country's history. There is one female cabinet minister.

The indigenous movement, which previously shunned traditional politics, formed an electoral movement called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the 1996, 1998, and 2000 elections. A Pachakutik Congresswoman, Nina Pacari, formerly the Second Vice President of Congress, is part of an eight-member congressional bloc whose cooperation with the majority in Congress on some issues has ensured it significant influence. The politically active Confederation of Ecuador's Indian Nationalities, headed by Antonio Vargas, was at the forefront of protests that overthrew then-President Mahuad. Indigenous members of the National Constituent Assembly and their supporters won important constitutional protections for indigenous rights in the 1998 Constitution. There are 3 indigenous deputies serving in the 123-member Congress.

One Afro-Ecuadorian serves as a member of Congress, but none are found in senior-level government jobs.

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

A number of domestic and international human rights groups operate 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. Nevertheless, the Government contracted with the ALDHU to provide human rights training to the military and the police.

The office of the Ombudsman was created in 1998 to ensure ongoing attention to human rights problems; however, some observers have criticized its independence in practice. In May Congress removed the Ombudsman from office on charges of fraud for acts that he committed while he was acting Attorney General. As of year's end, Congress had not named a replacement, and Claudio Mueckay was acting Ombudsman at year's end.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of NGO's, contributed to development of this plan. At the end of 1999, the U.N. had contributed \$1.2 million to support the plan. The plan includes education for the Congress on human rights matters. The Government began to implement various aspects of its plan, including seminars, publishing documents, and a contingency plan for refugees.

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

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. However, women, indigenous people, and Afro-Ecuadorians continue to face significant discrimination.

*Women.*—Although the law prohibits violence against women, including within marriage, it is a widespread practice. The 1995 Law Against Violence Affecting Women and Children criminalized spousal abuse, including physical, sexual, and psychological abuse; created family courts; and reformed the Penal Code to give courts the power to separate an abusive spouse from the home. Although nationwide statistics were not available, according to an NGO in Guayaquil, that city registered more than 32,000 official complaints of domestic violence between May 1998 and May 1999, almost double the previous period's figure. The NGO's report also said that one out of three women suffered from some form of domestic violence. Women may file complaints against a rapist or an abusive spouse or companion only if they

produce a witness. Many rapes also are not reported due to the victims' reluctance to confront the perpetrators. The penalty for rape is a jail sentence of up to 16 years. 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. While some communities have established their own centers for counseling and legal support of abused women, the Government only began to address this problem seriously with the 1994 formation of the Women's Bureau. Although this office can accept complaints about abuse of women, it has no authority to act on the complaints. However, the Women's Bureau has doubled the number of its outreach offices and actively referred abuse cases to prosecutors.

Sexual harassment in the workplace is common.

Adult prostitution is legal.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleges that culture and tradition inhibit achievement of full equality for women. There are fewer women than men in the professions and skilled trades, and pay discrimination against women is common.

The Ecuadorian Women's Permanent National Forum, founded in 1994, includes more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operates in 17 provinces, promotes similar themes relating to women's rights, with an emphasis on political participation and human rights. It also focuses on young women and Afro-Ecuadorian women.

*Children.*—According to the National Statistics Institute, in 1999 approximately 47 percent of the population was under the age of 18. The Government has not taken effective steps to promote the welfare of children. The Constitution requires that children achieve "a basic level of education," estimated at 9 years of school; however, the Government rarely enforces this requirement in practice (see Section 6.d.). Education is free.

There is no societal pattern of abuse against children. Government resources to assist children traditionally have been limited, although the Government operates a program to care for the children of the working poor called "Operation Child Rescue." The Inter-American Commission on Human Rights has concluded that this program reached only a small percentage of those affected. Approximately 45 percent of children under the age of 5 are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of GDP. There are more than 20 NGO's that promote child welfare.

Several private organizations are very active in programs to assist street children, and UNICEF also runs a program in conjunction with the Central Bank. The children of the poor often experience severe hardships, especially in urban areas. Children as young as 5 or 6 years of age often sell newspapers or candy on the street to support themselves or to augment family income. Also, there are reports of prostitution by girls and boys under 18 years of age in urban areas, and there have been reports of cases in which children were forced into prostitution. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

*People with Disabilities.*—There is no official discrimination against disabled persons in employment, education, or the provision of other state services. However, there are no laws to ensure disabled persons access to public buildings or services, nor are they provided any other special government assistance. In June the city of Guayaquil began a modest program to give the disabled better access to public buildings.

*Indigenous People.*—While at least 85 percent of all citizens claim some indigenous heritage, culturally indigenous people make up about 15 to 20 percent of the total population. The vast majority live in rural areas, including the highlands and the Amazonian provinces, and most live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas where high infant mortality, malnutrition, and epidemic disease are common. Electricity and potable water often are unavailable. Although the rural education system is 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. Indige-

nous people also have the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGO's, and mounted protests (including kidnaping oil workers and tourists), in their attempts to win a share of oil revenues and a voice in exploitation and development decisions. The Constitution expressly recognizes the indigenous communities' rights to be consulted on, but not to approve, oil exploration and development. Oil companies have increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continue to face criticism from indigenous groups that environmental damage still is occurring.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, Indians continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socioeconomic scale. For example, by one UNICEF estimate in 1999, 83 percent of indigenous children worked at some kind of job (see Section 6.d.).

CONAIE was at the forefront of protests that toppled President Mahuad (see Section 3). It also has arranged a popular referendum and public demonstrations to protest government economic austerity measures and to urge the repeal of economic modernization laws involving privatization of state-owned enterprises.

*Religious Minorities.*—Although relations between religious communities generally have been amicable, in past years there have been a few incidents of interreligious or intrareligious tension or violence.

A Baptist clinic in the town of Chachas is operating normally, following opposition to its establishment from local residents in April 1999.

*National/Racial/Ethnic Minorities.*—The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There are no special government efforts to address these problems.

There are five major Afro-Ecuadorian organizations active in the country; the largest is the Confederacion Nacional Afroecuatoriana, with headquarters in Quito. It estimates that Afro-Ecuadorians account for more than 1 million persons, or about 10 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them. For example, they assert that the police stop Afro-Ecuadorians for document checks with greater frequency than 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. Members of the police, the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms sets the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. Although the Congress debated additional labor reforms, labor law was in flux at year's end because the Constitutional Court ruled that some recent labor legislation was unconstitutional. The court's ruling nullified several articles that the Government stated provided flexibility to employers, but that some observers claimed undercut constitutional protections of worker rights.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintain membership in some labor organization, and there are frequent "illegal" strikes. Despite official threats, the Government rarely takes action against striking public workers. However, in May the Government ordered striking teachers back to work and arrested and temporarily jailed National Teachers' Union (UNE) leaders. A November 1997 law prohibits public sector strikes if they paralyze key services, including schools.

Although the labor confederations are politically independent, the two largest single labor unions, the UNE and the Union of Social Security Workers, are allied with the Democratic Political Movement, a communist party. Approximately 12 percent of the work force is organized. There are four large labor centrals or confederations. None of the main labor centrals is connected firmly to any one political party, and there are no ties between the Government and any labor union.

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 revisions limit solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In 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. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

There were several significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as teachers and social security and medical workers, as well as petroleum, electricity, and transportation workers; indigenous groups also protested during the strikes. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 2.b.). In April public sector bureaucrats went on strike to demand higher wages. In May the Public Teachers Union (UNE) began a countrywide strike for higher wages, and a judge issued an arrest warrant for Arcelly Moreno, the president of the UNE. The strike lasted more than 2 months; some striking teachers were detained for as long as 10 days. In December health workers held a strike for 2 weeks.

Unions may freely form and join federations or confederations, and three of the large labor centrals maintain international affiliations.

*b. The Right to Organize and Bargain Collectively.*—The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements cover only onequarter of the approximately 12 percent of the work force that is organized. In March a new labor law allowed businesses to hire workers on “individual contracts,” but the practice did not become prevalent because Congress was reconsidering the law at year’s end.

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. The law does not permit employers to dismiss a worker without the express permission of the Ministry of Labor, whose rulings are not subject to judicial review. If the Ministry of Labor rules that a dismissal is unjustified, it can require the employer to pay large indemnities or separation payments to the worker, although the reforms set a cap on such payments. A fired worker is eligible for reinstatement and in general would not be blacklisted at other companies. Workers generally are protected against antiunion discrimination only by pressure from the union. The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board which consists of one representative of the Ministry of Labor, two from the union, and two from management.

The 1990 Maquila Law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries only. While there is no express prohibition on association rights in the Maquila Law, in practice it is difficult to organize temporary employees on short-term contracts. Since temporary workers are not recognized by the Labor Code, they do not enjoy the same level of protection offered to other workers. The maquila system allows a company and its property to become an export-processing zone wherever it is located. Many such “zones” have been established; most are relatively small and are dedicated to textiles and fish processing.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general. There have been reports of children forced into prostitution (see Section 5), but there were no other reports of forced or bonded labor by children.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits boys younger than 12 years old and girls younger than age 14 from working, except in special circumstances such as apprenticeships. It requires children between the ages of 12 or 14 and 18 years to have the permission of their parent or guardian to work. The law also prohibits children between the ages of 14 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 14 years to a maximum of 6 hours per day and 30 hours per week. In practice the Ministry of Labor fails to enforce child labor laws, and child labor is prevalent. The problem has increased in recent years due to the prolonged economic crisis, and urban child labor has increased with the migration of the rural poor to the cities. A UNICEF report estimated that in 1997, 37 percent of the 2.1 million children between the ages of 10 and 17 worked; in 1999 almost

1 out of 2 children in this age bracket worked. A 1999 report based on a joint national and World Bank study found that 45 percent of children between the ages of 10 and 17 worked at least parttime. Among children aged 10 to 11, who cannot work legally, 28 percent worked at least part-time nationwide. More than 60 percent of all children live in rural areas and do unpaid agricultural work for their families.

The Constitution provides that children must attend school until they attain a "basic level of education" estimated at 9 school years. However, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the need for children to work, this provision rarely is enforced. UNICEF reported in 1999 that one out of three children did not remain in school long enough to complete the 6th grade. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount is spent. The Government has programs in 18 urban areas that provide families with educational subsidies as an incentive to keep children in school. In rural areas, many children attend school only sporadically after about 10 years of age in order to contribute to household income as farm laborers.

In the city, many children under 12 years of age work in familyowned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Others are employed in commerce, messenger services, domestic service, and begging. Child prostitution is a problem, and there have been cases reported of children being forced into prostitution (see Section 5). The law prohibits forced or bonded labor by children, and there were no other reports of such practices (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust it. As of August, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$110, or 50 cents per hour in the case of contract workers. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers work in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries this out through a corps of labor inspectors who are active in all 22 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. In March reforms to the labor law nominally gave greater flexibility to employers by hiring parttime workers, such as accountants, for only a few hours per week. However, this legislation was affected by a Constitutional Court decision (see Section 6.a.).

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranges from a few days in major cities to much longer in the countryside.

The Government enforces health and safety standards and regulations through the Social Security Institute. In the formal sector, occupational health and safety is not a major problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and in practice there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector. During the year, at least two fatalities were reported due to accidents in the mines.

*f. Trafficking in Persons.*—There is a misdemeanor law that addresses trafficking in persons; it provides for penalties from 6 months to 3 years in prison, as well as fines. The Migration Law and the Penal Code provide for the imposition of sanctions on suppliers of false documents for purposes of travel or work. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. In June Congress amended the Criminal Code to strengthen sentences for furnishing or utilizing false documents and for alien smuggling. Alien smugglers or traffickers can receive sentences from 3 to 6 years' imprisonment; the penalties range from 6 to 9 years' if victims are injured, and a penalty of up to 12 years may be imposed if a death occurs. The law specifically exempts victims from prosecution. There were no confirmed reports of persons being trafficked to, from, within, or through the country against their will; however, there were many reports of persons being smuggled illegally from the country to the

United States through Central America in which trafficking sometimes was suspected. In 1999 police in Spain reported that they had arrested 50 Ecuadorian women working as prostitutes who were likely victims of trafficking.

## EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. President Francisco Flores of the Nationalist Republican Alliance (ARENA) was elected in 1999 to a 5-year term. In free and fair elections in March, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA maintains a working majority in coalition with the conservative National Conciliation Party. Three other parties hold seats in the Assembly. The judiciary is constitutionally independent but suffers from inefficiency and corruption.

The National Civilian Police (PNC) maintains internal security. The military is responsible for external security. The military provides support for some PNC patrols in rural areas, a measure begun in 1995 by presidential executive order in an effort to contain violence by well-armed, organized criminal bands. In March at the President's direction, the air force, navy, and selected army units formed Joint Task Groups with the police as part of an interagency antinarcotics program. Civilian authorities maintain effective control of the military and security forces. Some members of the police committed human rights abuses.

The country has a free-market, mixed economy largely based on services, agriculture, and manufacturing. Although agriculture accounts for only 12 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 35 percent of the work force, estimated at 2.3 million persons. Coffee and sugar are the principal export crops and important sources of foreign exchange. The manufacturing sector, which contributes 21 percent of GDP, employs 9 percent of the work force. The textile sector, especially the maquila (in-bond assembly or processing) plants in free trade zones, represents about 50 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth was estimated to reach 2.5 percent during the year. Inflation was 3.6 percent. Per capita GDP reached \$2,080. The official unemployment rate averaged 7.7 percent during the year, 6.5 percent urban and 11 percent rural; however, the rate of underemployment (less than full-time work or total income below the minimum wage) was estimated at about 30 percent. Approximately 44 percent of the population lives below the poverty level.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police officers committed extrajudicial killings. The Supreme Court found the 1993 Amnesty Law constitutional but noted that certain categories of crimes were not covered. Police kidnaped persons for profit. The police used excessive force and mistreated detainees; there were also allegations that police abused street children. Prison conditions remained poor. High crime rates, together with police officer involvement in prominent kidnappings, led to the creation of a presidential commission to discipline and dismiss corrupt and criminal police. Police arbitrarily arrested and detained persons. The judiciary remained inefficient and is hampered by widespread corruption. Impunity for the rich and powerful remained a problem. The authorities used force to disperse one demonstration; one person was injured. In February Human Rights Ombudsman Eduardo Penate Polanco resigned over misconduct charges; the Legislative Assembly had not named a successor at year's end. Violence and discrimination against women continued, and 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 is a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings by agents of the Government; however, the police committed some extrajudicial killings.

During the year, the Human Rights Ombudsman's office received for investigation 87 cases alleging killings by the PNC during the year and in prior years. As of November, the presidential commission investigating police misconduct identified at

least 72 officers suspected of extrajudicial killings during the year and in prior years.

On February 10, police shot at the tires and windshield of a vehicle that failed to obey their signal to stop on a major thoroughfare in San Salvador. When the vehicle halted, passenger Salvador Hernandez fled, and a police officer shot and killed him. The prosecutor charged Mario Orlando Franco Duran with aggravated homicide. He also charged Franco and three other officers with the attempted murder of Edwin Quintanilla Flores and Ricardo Trejo Stanley, the vehicle's driver and another passenger. On December 11, a judge determined that there was sufficient evidence to support the homicide charge for the trial of Franco to proceed to the next phase; however, the judge dismissed the attempted homicide charges against the defendants on grounds that it was impossible to determine which officers intended to shoot at the vehicle's windshield. The prosecutor appealed the latter verdict, and the appeal was pending at year's end.

On April 7, police driver Mauricio Enrique Martinez shot and killed Luis Edgardo Garcia Vasquez after he failed to stop when signaled by police on the highway between Santa Ana and Ahuachapan. Two police officers and two police drivers pursued him and shot out his tires. When the vehicle stopped, Martinez opened the door and shot Garcia in the head. In December a court convicted Martinez of aggravated murder and sentenced him to 28 years in prison. The two officers were acquitted, and charges were dropped against the other driver, who became a witness in the case.

In June PNC officer Luis Alonso Navarrete was on duty with a Joint Task Group (composed of soldiers and police) when he allegedly shot and killed six persons and wounded four others with an M-16. Five of the victims were soldiers who formed part of his Joint Task Group. Police arrested Navarrete the same day; he reportedly suffered from mental illness. The PNC disciplinary committee dismissed Navarrete from the police in September. He remained in custody awaiting trial on charges of aggravated homicide and attempted aggravated homicide at year's end.

A total of 13 inmates died in prison due to violence and illness (see Section 1.c.). There was mixed progress in resolving cases of extrajudicial killings from previous years.

In October a court sentenced police officer Jose Miguel Soriano Melgar to 12 years in prison for the November 1999 shooting of Carlos Lopez Regalo. The court acquitted police captain Erick Fuentes of the charge of aggravated homicide. That verdict was appealed in November; the appeal was pending at year's end.

In July a police disciplinary tribunal removed from the force five officers charged with the November 1999 beating death of Manuel de Jesus Parada. In October a jury acquitted four of them of the crime; it issued no verdict for the fifth officer, who had fled prosecution and did not appear for the trial.

In October a court found three PNC officers guilty of attempted homicide for torturing Juan Carlos Miranda before stabbing him and stealing his vehicle (see Section 1.c.).

In November a court convicted police officer Jorge Alberto Canas Sanchez of aggravated homicide and sentenced him to 30 years in prison for the August 1999 murders of Fernando Hernandez and Manuel Aguilar. Two other officers charged with the crime remained fugitives at year's end. A judge provisionally acquitted another individual who had been charged with complicity. The prosecutor's appeal was pending at year's end.

In February a court dismissed charges against a police officer in the August 1999 shooting of a protester near Sonsonate during a confrontation between police and several hundred members of the Association of Salvadoran Agricultural Producers. The prosecutor appealed, but the appeals court upheld the verdict.

In October the trial of Jose Ernesto Cordova, charged with the July 1999 murder of William Ernesto Rosales Bonilla, an employee of the newspaper *El Diario de Hoy*, began. The trial had not concluded at year's end. Prosecutors assert that there were other participants in the crime, including police officers. However, no evidence of police participation had been found by year's end.

A public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Villalta. The next phase of the trial was scheduled for January 2001.

There were no further developments in the 1998 death of Carlos Ernesto Lovo who died of drowning after fleeing police custody.

In February four members of the National Action Party (PAN) were killed in two separate incidents. Masked gunmen shot and killed Gilberto Cano Gonzalez near PAN headquarters in Metapan while he was distributing campaign materials to a party sympathizer, Samuel Martinez Flores. Martinez was killed by his own gun, which he dropped in his attempt to flee after the first shots were fired. In October

a court found ARENA activist Jose David Murcia and Gilberto Torres not guilty of aggravated homicide. The prosecutor appealed, alleging procedural errors in the trial. The appeal was pending at year's end. In San Antonio de Monte a local resident (reportedly mentally disturbed) stoned two PAN members to death. The police detained the perpetrator, and there was no indication of any political connection.

On March 26, Jose Maria Tojeira, rector of the Jose Simeon Canas Central American University, formally asked the Attorney General to reopen the case of the 1989 murders of six Jesuit priests, their housekeeper, and her daughter and prosecute the crime's alleged instigators. He based his request in part on the December 1999 report by the Inter-American Commission on Human Rights (IACHR) which found the State responsible for violating the right to life of the eight murdered persons and for failing to conduct an effective investigation. The report also criticized the 1993 General Amnesty Law, which led to the release from custody of two military officers found guilty of the murders in 1992, and called on the Government to reopen the case. In reply to the IACHR report, the President reviewed the steps taken by the justice system to investigate and punish the crime; however, he recommended against reopening the case because that would undermine the integrity of the post civil war amnesty, which he regarded as essential to the continuing process of national reconciliation. The Attorney General deferred action on Tojeira's petition until the Supreme Court (CSJ) issued its decision on the constitutionality of the 1993 General Amnesty Law. On September 26, the CSJ upheld the constitutionality of the 1993 General Amnesty Law. However, the Court also indicated that certain special cases were not eligible for amnesty and gave lower courts discretion to adjudicate these matters on a case-by-case basis. In December the Attorney General brought the matter before a lower court judge and recommended that the case be closed. The judge ruled that the accused were not covered under the amnesty law because they were public officials at the time of the killings. However, she closed the case because the 10-year statute of limitations had expired. Tojeira appealed the decision, as did the defense, who wanted the court to find the accused not guilty based on the facts rather than the statute of limitations. Both appeals were pending at year's end.

*b. Disappearance.*—There were no confirmed politically motivated disappearances.

As of mid-November, the presidential commission investigating police misconduct identified at least 12 officers suspected of involvement in kidnappings in during the year and in prior years. Most disappearances were the result of kidnaping for profit, a common occurrence affecting all levels of society throughout the country.

In May an organized crime group that included police officers kidnaped businessman Rodrigo Zablah in San Salvador and held him for more than 2 weeks. Three police officers allegedly stopped his vehicle and told him to accompany them to the police station because of a traffic accident that had occurred a day earlier. Once he was in the police car, they took him to another location. The Attorney General's office identified 18 persons involved in the crime, including at least 3 police officers. A hearing was scheduled for June 2001. Eight of the accused remained at large at year's end.

In June another organized crime group that included police officers kidnaped a couple in Sonsonate and demanded ransom. The PNC's antikidnaping unit rescued the victims the next day and captured five persons. The Attorney General's office charged eight persons with the crime, including PNC sergeant Tomasa Reyes Alvarado and former PNC sergeant Jose Azcunaga Segura. The latter had been charged with kidnaping in the past and had been removed from the police force. A hearing was scheduled for May 2001. Two of the accused remained at large at year's end.

There were no new developments in the 1999 kidnappings of Margarita Posada, the director of a domestic nongovernmental organization (NGO), and Miguel Montenegro, president of the Human Rights Commission of El Salvador. Both victims were released within a day. The police did not find the perpetrators.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict, a local NGO, advocated the creation of a national commission to clarify what happened to 383 children who disappeared during the war, and whose whereabouts remain unknown. The Legislative Assembly had taken no action on their request at the end of the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, some members of the PNC continued to use excessive force or otherwise mistreated detainees.

In February four PNC officers allegedly tortured Juan Carlos Miranda before stabbing him and stealing his vehicle. The officers had stopped him as he was driving a minibus. After putting him in the back of the bus, they kicked, beat, and threatened him for 2 hours. Finally, they stabbed him and left him for dead. In Oc-

tober a court found three officers guilty of attempted homicide and sentenced them to 16 years in prison. The court absolved a fourth officer of all charges.

During the year, the office of the Ombudsman for the Protection of Human Rights (PDDH) received 724 complaints of violation of the right of personal integrity by government authorities, a decrease from a total of 929 complaints in 1999. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and improper treatment of detainees. The majority of these complaints involved the PNC and alleged minor to serious violations of arrest procedures. The PDDH received a total of 1,198 complaints against the PNC for all categories of human rights violations during the year. The number of complaints against the PNC and the cases of violations of personal integrity by all authorities have declined for the past several years.

At year's end, 128 police officers were in prison on criminal charges or serving prison sentences for crimes that included murder, rape, extortion, and kidnaping.

In June President Flores named a commission to investigate alleged police misconduct. The commission proposed reforms to PNC regulations to expedite discipline and dismissals, including the establishment of special courts to review cases of alleged misconduct. In June the Legislative Assembly passed authorizing legislation to implement the measures recommended by the commission. This legislation strengthened the role of the PNC Inspector General's office, making it a quasi-independent body within the PNC, charged with investigating allegations of police misconduct and reporting directly to the chief. In August the Assembly approved a temporary measure that allowed the chief of police for 120 days to remove officers charged with crimes or inadequate performance following an internal PNC investigation by the office of the Inspector General. In December the Assembly extended the measure for an additional 45 days. By year's end, the police force had dismissed more than 1,500 persons under the special decree and preexisting disciplinary procedures, and the special police courts had acquitted more than 200 persons. Some assembly deputies and the press questioned the transparency of the process and the fairness of its application and charged that high ranking officers remained immune from scrutiny. The commission identified 14 persons suspected of having committed torture.

Labor organizations and the Human Rights Ombudsman alleged that in March the Government used unwarranted force to disperse a demonstration by striking social security workers. The police used water cannons on demonstrators who had blocked a busy street for several hours and refused to move when urged to do so by police and other authorities, including the Human Rights Ombudsman. The police shot rubber bullets in the air, injuring one journalist. When the case was brought to court in March, the judge determined that the use of force by police was appropriate for the circumstances. The Government did not employ force during other demonstrations during the year.

In the past there have been allegations from children's rights groups that street children suffer from police brutality; the PNC always have denied these charges (see Section 5).

There were no further developments in the 1998 shooting of FMLN communications adviser Leonardo Mena Marroquin.

Human rights awareness was a standard component of the police officers' basic training program.

Prison conditions remained poor. From December 1997 to December 1999, the prison population fell about 23 percent as a result of the implementation of new sentencing and penal codes, which limit preventive detention to serious crimes. However, it increased again during the year. The prison system has the capacity to hold 5,794 prisoners in 18 penal facilities. There was still some overcrowding in individual facilities. At year's end, 7,383 men were held in 17 prison facilities with a combined capacity of 5,674; there are 371 women in the single women's prison, which has a capacity of 120; and there are 61 men in 3 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often are sent to regular prisons, where they may be placed together with violent criminals.

Gang violence, especially in the country's three largest and oldest penitentiaries and its juvenile holding facilities, continued to plague the prison system, despite government efforts to separate different gangs. In January the media reported incidents of prisoners torturing other prisoners in La Esperanza in San Salvador in 1999 and earlier. Prison authorities reported that, during the year, there were 13 deaths in the prison system, 4 of which were from multiple wounds caused by violence between prisoners. The remaining deaths resulted from illness.

There are separate facilities for female detainees and prisoners.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government observes this requirement in practice. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest; however, at times the PNC arbitrarily arrested and detained persons. During the year, the PDDH received 181 complaints for violations of personal liberty, a decrease from 225 complaints in 1999. The number of complaints in this category has declined steadily since 1996. The courts generally enforced a ruling that interrogation without the presence of counsel is coerced and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often are sent to regular prisons, where they may be placed together with violent criminals. The law allows 120 days to investigate serious crimes and 45 days for lesser offenses before a judge is required to bring the accused to trial or dismiss the case. However, many cases were not completed within the legally prescribed time frame. During the year, more than 2,000 inmates were in pretrial detention. From January through May, the justice of the peace courts, where most court cases originate, accepted a daily average of 166 cases. Of these, a daily average of nine cases were resolved through conciliation proceedings.

The Penitentiary Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observes this prohibition.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. However, the judiciary suffers from inefficiency and corruption.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council. The Council is an independent body provided for in the Constitution to nominate, train, and evaluate judges. All lower court judges serve until they voluntarily resign or are dismissed for cause. The Legislative Assembly elects, by a two-thirds majority, Supreme Court justices from a list provided by the National Judicial Council and the National Association of Lawyers. A justice serves for 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 Criminal Sentencing Court has responsibility for executing and monitoring the sentences imposed by the trial courts. 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 National Judicial Council, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial determination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

The Juvenile Legal Code requires that minors under the age of 18 be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors.

In 1999 the Legislative Assembly approved a number of additional changes to the Criminal Procedures and Penal and Penitentiary (Sentencing) Codes. These changes included the establishment of more severe penalties for some crimes (including increasing the maximum possible prison sentence from 30 to 35 years), the elimination of parole for some crimes, and the addition of new crimes to the code. One of these reforms strengthened the legal protection afforded to children and the disabled by prescribing 6-to-8-year prison sentences for persons convicted of sexual ag-

gression against adults incapacitated by mental or physical conditions or against minors.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity before the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well-connected. In August National Conciliation Party leader and Legislative Assembly Deputy Francisco Merino shot at police officers, injuring one officer. (Merino is also a former Vice President.) Merino settled out of court with the police department and the injured officer. The Assembly decided not to lift Merino's parliamentary immunity to allow criminal prosecution.

In October a judge exonerated the individuals accused of the April 1999 rape and murder of 9-year-old Katya Miranda. Investigators allegedly failed to collect important evidence at the crime scene, and the judge refused to interview several witnesses identified by prosecutors. In November a judge ruled that the ex-president and directors of the Salvadoran Soccer Federation could not be prosecuted for misuse of funds, document fraud, and other charges because the organization was not public. More than \$4 million (36 million colones) was missing from the Federation. The Attorney General's office appealed the judge's decision, and a hearing was scheduled for January 2001.

Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, resulting in diminished public confidence in the justice system.

Corruption in the judicial system and the Attorney General's office contributed to impunity. In November the Attorney General announced that he was investigating information that almost 450 prosecutors and judges might have falsified their credentials or obtained them illegitimately, and another 83 persons might have been involved in nepotism. He also was investigating suspicions that prominent defense attorneys had sources inside the prosecutors' office who provided leaks that impeded investigations and prevented successful prosecutions.

The Government and the Legislature took steps to address these problems. At the Attorney General's urging, the Legislative Assembly passed a law on November 23 that created an expedited process for dismissing employees of the Attorney General's office. The measure, authorized for 120 days, was modeled after a law passed in August that permitted the expedited removal of undesirable persons from the police force.

Some public officials called for the Supreme Court to begin a similar initiative to remove corrupt judges. The Court maintained that its Department of Judicial Investigation and the National Judicial Council already scrutinized judicial performance on an ongoing basis. In practice, the Court imposed few sanctions upon judges. During the year the Court received the Council's evaluations of the performance of 322 justices of the peace, 46 trial court judges, 63 sentencing court judges, and 28 appeals court magistrates. The evaluations reviewed each judge's performance over several months in 1998 or 1999. The Council recommended the dismissal of 3 justices of the peace and 1 trial court judge, and suspensions ranging from 3 to 60 days for 156 justices of the peace, 23 trial court judges, 18 sentencing court judges, and 13 appeals court magistrates. The Court exonerated two of the four officials recommended for dismissal; a third resigned, and the fourth case remained under review at the end of the year. By the end of the year, the Court had begun to review 11 cases of judges recommended for dismissal. It had taken no action in the remaining cases.

The implementation of judicial reforms continued to create confusion and uncertainty among police, prosecutors, public defenders, and the courts. Inadequate police coverage (due to limited resources and lack of sufficient personnel) 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.

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 these rights 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.

In June the Attorney General's office initiated investigations of reported illegal wiretapping activities conducted by the telecommunications company, TELECOM. The Legislative Assembly formed a special commission to conduct parallel investigations. The Superintendent of Telecommunications and Electricity produced a list of telephone numbers believed to have been tapped, including those of the offices of the Attorney General, politicians, journalists, and NGO's. Neither the commission nor the Attorney General had completed their investigations, and the purpose of the wiretapping had not been determined at year's end.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of the press, and the Government respects this right in practice. Print and broadcast journalists from all major media outlets regularly and freely criticize the Government and report opposition views. Opposition figures are interviewed routinely on television and radio, and in the press. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations complained that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy.

The Inter-American Press Association identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources. In September some news organizations criticized the Government for attempting to require all television and radio stations to broadcast the President's speech and related events celebrating Independence Day. Several organizations refused to broadcast events other than the President's speech; however, the Government took no action against them.

There are 5 daily newspapers, with a combined circulation of more than 250,000 copies per day, and 12 television stations. Four independent VHF television stations reach most areas of the country, while the government-owned and operated VHF station has poor signal quality even in San Salvador. Seven 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 other cable companies operate in the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major local stations and a wide range of international programming. There are approximately 20 small cable television companies across the country, serving limited local areas. While most of them appear to be authorized broadcasters, several are believed to be pirating signals. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the 1999 Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the Inter-American Press Association (IAPA) have asserted that the provision abridges press freedom. In the past, legislative deputies have argued that misuse of the provision could lead to impunity and corruption by limiting the "watchdog" role of the press.

There were no instances of censorship of books, other publications, films, or plays. The Constitution provides for academic freedom, and the Government respects this right in practice.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for peaceful assembly for any lawful purpose, and the Government respects this right in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common and generally peaceful. A court determined that the Government's use of force to disperse a demonstration by striking social security workers in March was appropriate (see Section 1.c.).

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

The Supreme Court still had not decided a constitutional challenge to a 1996 law charging the Ministry of Interior with registering, regulating, and overseeing the finances of NGO's and non-Catholic religious groups, which a group of affected organizations filed in 1998.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects 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.

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

The law does not include specific provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Sta-

tus of Refugees and its 1967 Protocol; however, the Government has procedures for handling such requests in accordance with these principles.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen in recent years. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

Ten political parties, representing the full political spectrum, fielded 7 candidates in the March 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

Four PAN members were killed in two separate incidents in February prior to the March elections (see Section 1.a.).

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, women are not accorded equal respect or stature in these areas and are under-represented in government and politics. Women head three ministries (Foreign Affairs, Education, and Environment) and the Social Security Institute, and hold a substantial number of vice- and sub-ministerial jobs. Women represented 49 percent of the registered voters in the March election. In March voters elected 8 women to the 84-seat legislature, a decrease from the previous Assembly's 14 women. One woman sits on the Assembly's 11-member governing board; there were 2 women on the board in the previous legislature.

Minorities, including indigenous people, are not barred from voting or participating in government and politics; however, they are underrepresented.

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

The Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGO's. However, it was sometimes reluctant to discuss worker rights issues with NGO's. Numerous domestic and various international NGO's operated freely. Domestic and international NGO's are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties.

The principal human rights investigative and monitoring body is the Ombudsman for the Defense of Human Rights (PDDH), 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.

Ombudsman Eduardo Penate Polanco resigned in February. The Attorney General had charged him with diverting funds from international donors while he worked in a previous job, and the Legislative Assembly was preparing to remove him from office for negligence. Following his resignation, the office continued its work under an acting Ombudsman while the Legislative Assembly considered other candidates. The office's investigative capacity remained limited due to resource constraints. The institution remained handicapped because the interim official lacked confirmation by the Assembly and therefore did not have the same authority as a permanent ombudsman.

During the year, the PDDH accepted 2,572 complaints of human rights violations. The rights most frequently alleged to have been violated included personal integrity and due process of law; 566 complaints.

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

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women, the disabled, and indigenous people occurs in salaries and hiring. There were some instances of violence against homosexuals.

There were no new developments in the 1999 shooting of a man leaving the office of the domestic homosexual rights organization *Entre Amigos*, or in the telephonic death threats against the director of that organization. There were no new developments in the 1999 murders of transvestite prostitutes "Doris" and Nestor Adonai Marengo (known as "Gloria") nor in the murders of transvestite prostitutes in 1998.

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with hitting, insulting, and threatening six homosexuals.

*Women.*—Violence against women, including domestic violence, is a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly is being recognized publicly and has become a topic for national debate. Government institutions, such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC, coordinated efforts with NGO's 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 maintains a hot line for victims to report domestic abuse. The Salvadoran Institute for the Development of Women (ISDEMU) received 4,017 cases of domestic violence through August, a number slightly down from the same period in 1999. 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. The penalties for sexually aggressive rape are 6 to 10 years in prison. The law does not specifically address spousal rape; however, it could be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 277 cases of sexual aggression through August, a slight increase above the same period in 1999.

Prostitution is common. There were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Women are trafficked to Mexico to work as prostitutes (see Sections 6.c. and 6.f.).

The law prohibits sexual harassment. In May the authorities dismissed a deputy police commissioner for having sexually harassed a female subordinate.

The Constitution grants women and men the same legal rights; however, women suffer discrimination.

Women suffer from cultural and societal discrimination and have significantly reduced economic opportunities. Priority generally is given to male children for schooling, to men for available jobs and promotions, and to sons for inheritances. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. On June 15, the Legislature ratified International Labor Organization (ILO) Convention Number 100, on equal remuneration. However, while there is no definitive evidence available, it is widely believed that women often are paid less than men for equal work. The one sector in which there is an exception to this practice is in the export processing zones and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (see Section 6.b.). However, even in this sector, men hold the majority of management positions. Training for women generally was confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses. The law prohibits pregnant women from working in strenuous occupations after the fourth month of pregnancy (see Section 6.e.).

Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

*Children.*—The Government concentrated more on reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. The National Secretariat of the Family solicited public input on a new national policy of comprehensive attention for children and adolescents.

Education is compulsory through the 9th grade (up to age 14). Public education is free through high school, and only a nominal fee is charged to attend the national public university. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents withdraw their children from school by the sixth grade to work. UNICEF data from 1998 show that 14 percent of urban children (ages 7–17) and 29 percent of rural children were not attending classes.

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 Salvadoran Institute for the Protection of Children (ISPM), an autono-

mous entity, has responsibility for protecting and promoting children's rights. The ISPM estimated that an average of 2,600 children, some abandoned and others victims of mistreatment, stayed in its shelters. For the year, it reported 1,126 cases of physical mistreatment, 267 cases of negligence, and 374 cases of abandonment. All of these statistics were below those for the same period in 1999 when the ISPM reported approximately 1,500 cases of mistreatment, 650 cases of negligence, and 700 cases of abandonment. Using different criteria, the ISDEMU recorded 3,071 cases of abuse during the year, significantly below the 1999 level of 10,070 cases. The difference reflects a change in reporting criteria.

Substance abuse (glue and paint sniffing) was a problem among urban street children. FUNDASALVA, an NGO, provides drug counseling and treatment to minors. In the past, there have been allegations from children's rights advocates that street children suffer from police brutality. The PNC denied these charges and incorporated PDDH human rights training into programs for police units that deal with juveniles.

The ISPM reported 87 cases of sexual abuse, a slight increase from the 1999 figure of 72. A majority of the victims were female. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

The PDDH estimated that 270,000 minors work, most as street vendors (see Section 6.d.). In addition to lost educational opportunities, some of these children fell victim to sexual abuse and were exploited and forced into prostitution (see Sections 6.c. and 6.f.). Between 10 and 25 percent of "visible" prostitutes are minors, and an estimated 40 percent of the "hidden" prostitutes who cater to upper-class clients are believed to be minors, according to a UNICEF study released during the year.

Children, especially those living on the streets, are trafficked to other countries and then forced into prostitution (see Section 6.f.).

Child labor is a problem (see Section 6.d.).

Children from Honduras have been used as beggars to support traffickers in San Salvador (see Section 6.f.).

Infant malnutrition continued to be a problem. A National Family Health Poll, conducted in 1998 and released in December 1999, found that 1.1 percent of children under 5 years of age suffered from grave malnutrition, with an additional 21 percent experiencing less severe malnutrition. The Ministry of Health listed malnutrition as one of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

*People with Disabilities.*—Government efforts to combat discrimination and increase opportunities for the disabled are growing but inadequate, with the exception of the war wounded, who have secured both government and international funding for rehabilitation and retraining programs. In May the Legislative Assembly passed a law mandating that new or renovated public buildings be accessible to the disabled. The law also required businesses to employ 1 person with a disability for every 25 employees, an increase from the preexisting requirement of 1 to 50. Although the Government had not enforced the previous law's employment quota, it brought together dozens of government agencies and nongovernmental organizations to discuss ways to implement the new law effectively. However, the Ministry of Labor has only two persons to handle all issues related to the disabled, and its records are kept on paper files in its regional branches. Therefore, there are no reliable data on the number of disabled persons, nor on how many are employed.

Access by the disabled to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for the physically disabled. Only a few of the Government's community-based health promoters have been trained to treat the disabled, and they rarely provided such service. The Ministry of Health estimated that 10 percent of the population is afflicted by some form of disability. Many disabilities are directly attributable to the civil war. Other contributing factors included lack of prenatal care, misuse of pesticides in food production, malnutrition, auto accidents, and criminal violence.

There were several organizations dedicated to protecting and promoting the rights of the disabled, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation ProRehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled, has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses to the disabled.

The Government and national and international private and nongovernmental organizations provide its funding.

*Indigenous People.*—The country is ethnically homogeneous, although a very small segment of the population still claims indigenous status.

The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights.

Early in the century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem.

Indigenous people reportedly 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 growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans.

*Religious Minorities.*—There were no new developments in the investigation of the 1999 burglaries at offices of the Lutheran Church.

#### *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 the Government generally respected these rights; however, there were some problems. There were repeated complaints by workers, in some cases supported by the International Labor Organization's (ILO) Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association.

Union leaders asserted that the Government and judges continued to use excessive formalities to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. In March the Government denied an application from five food industry unions to form a federation, because they allegedly had made procedural errors in their application. In a complaint submitted to the ILO, the unions asserted that the Government had not given them an opportunity, as required by law, to correct the errors in their application. The CFA, in its November report, supported the workers' view, observing that it "deeply regretted" that the Government had not worked to overcome procedural problems that "could easily have been rectified." It criticized the Government, observing that "formalities should not be of such a nature as to impair the free establishment of organizations." In September the unions submitted a complaint to the Supreme Court that remained pending at year's end.

In 1999 the CFA similarly cited the Government for its failure to provide protection or remedy for a number of labor leaders fired in 1998 during the process of privatizing the state-owned telephone company. The finding concluded that the Labor Code imposed excessive formalities for the recognition of a trade union, and found that the application of the law repeatedly was used to refuse legal status to a trade union in the telephone company. The Committee called on the Government to complete the process for recognition of the telecommunications union, amend the Labor Code to remove the excessive formalities that the Committee concluded infringe on the right to form a union, seek to have the two union leaders who had not yet accepted severance pay reinstated, and ensure that future changes of company ownership did not threaten labor leaders or labor organizations.

The Government asserted that the telephone company complied with the labor code by offering a severance payment to the fired workers.

In September the Supreme Court determined that the Government had erred in denying legal standing to the telecommunications union and ordered the Government to grant it legal status. On October 23, the Government complied with the order and granted legal status to the union. However, TELECOM, the privatized successor to the state-owned telecommunications company, dismissed three union leaders in the next 5 weeks. As part of a company restructuring process, it also asked dozens of employees, many of whom were union members, to submit resigna-

tions. Thirteen employees refused, and the company prohibited their entry to the workplace. Telecom petitioned the Ministry of Labor to decertify the union, asserting that the union had failed to follow correct procedures for obtaining legal recognition. In December the Ministry of Labor sought to mediate a mutually agreeable settlement between the parties, but was unsuccessful. The union filed a lawsuit against the company for violating the rights of the union members. At year's end, the suit had not gone to trial, and the Ministry of Labor had not ruled on the company's petition.

There is a small organized labor sector with approximately 150 active unions, public employee associations, and peasant organizations, representing over 300,000 citizens, approximately 20 percent of the total work force. Unions generally are independent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if they do not provide essential services. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. Some of the most powerful labor groups are public employee associations. They have the same responsibilities as unions, including calling technically illegal strikes and collective bargaining. The Government negotiated with public employee associations and generally treated their strikes as legitimate, although the Labor Code provides for mandatory arbitration of public sector disputes. The November CFA stated that "denial of the right of association of public service employees to establish unions is an extremely serious violation." The Committee formally recommended that the Government amend national legislation to recognize the right of association of workers employed in the service of the State, with the possible exception of the armed forces and the police. There was one public sector strike during the year (see Section 1.c.).

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application. The Constitution provides that union officials may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause from the time of their election until one year after the completion of their term of office. 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, the Government did not prevent their dismissal or require their reinstatement.

The Committee on Freedom of Association cited one case in which a private firm blocked the formation of a union by coercing the union founders to resign 1 hour before the union was to be recognized officially (see Section 6.b.).

Unions can only strike after the expiration of a collective bargaining agreement. Unions must first seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, the strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, who notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

In June the Supreme Judicial Court determined that the Government's dismissal of striking Social Security Institute workers in 1999 was illegal. In accordance with that ruling, in August the Social Security Institute reinstated 187 of the 219 workers. The remaining workers requested a severance payment in lieu of reinstatement.

The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Ministry of Labor only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather

than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Labor leaders assert that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.) The arbitration panel for the Social Security labor dispute in March included a representative of the Labor Ministry, although the Labor Minister sits on the governing council of the Social Security Institute. Corruption continued to affect labor inspectors and courts.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the maintenance of lists of workers who would not be hired because they had belonged to unions.

In reviewing the February firing of 44 union members by the La Salud Dairy, the Ministry of Labor found that the cooperative had the legal right to dismiss the workers. It cited a provision of the Labor Code that allows enterprises to suspend labor contracts when economic conditions require them to reduce their activities; however, the dismissals occurred 1 day before a deadline for completing the renegotiation of a collective bargaining agreement, and in letters to the fired workers, the company cited the union's negotiating position as the reason for the dismissals. Labor representatives stated that, after dismissing the first set of workers, management successfully pressured the 43 remaining members to resign from the union.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 8 export processing zones (EPZ's). The Labor Code applies in the EPZ's; there are no special EPZ labor regulations.

Most EPZ companies and a large portion of the maquila plants had voluntary codes of conduct promoted by their parent corporations or foreign purchasers. In addition, two EPZ's have their own codes of conducts for all tenants. These codes include worker rights protection clauses. Some companies in the EPZ's provided salaries and on-site benefits (e.g. clinics, cafeterias) competitive with the best private sector enterprises (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 19 unions that exist in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its annual report that some EPZ workers also suffered low pay, health and safety risks, 12- to 14-hour workdays, and minimal toilet breaks.

In January the clothing assembly factory DOALL reemployed workers that unions alleged it had dismissed illegally when they tried to form a union in 1999. The reinstatements followed pressure from DOALL's major foreign customer and involvement by the Ministry of Labor. In September the Ministry of Labor approved an application for legal standing for a union formed by the rehired workers. The Ministry had denied the union's original application in 1999 based on documentation provided by DOALL showing that the workers had resigned 1 hour before they held the union's constituent assembly. Union officials asserted that company management had falsified the letters of resignation. The Committee on Freedom of Association noted that the Government had not responded to the Committee's queries on this incident which it said included "antiunion acts of discrimination and interference on the part of the company."

In October the Ministry of Labor opened branch offices in EPZ's to make its services more accessible to its users. The Ministry provided the staff, and the EPZ's covered other costs.

In the past, there have been credible accusations that some factories abused their workers, and that some women were not hired because they were pregnant. Workers have reported mistreatment, threats, abuse, and sexual harassment. Although the Ministry of Labor has improved its efforts to increase inspection and follow up on such complaints, it still has insufficient resources to cover all the EPZ's, much less the much larger national private sector.

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there have been no instances in which this has been used or even threatened publicly. The ICFTU has reported persistent problems facing female employees in EPZ's, including mandatory pregnancy tests and firing of workers who are pregnant (see Section 5).

On October 23, the Government complied with a Supreme Court order to provide legal standing to the telecommunications union (see Section 6.a.).

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, except in the case of calamity and other instances specified by

law, and the Government generally enforces this provision; however, there were reports that women were forced into prostitution (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children are covered by the general prohibition. There were no reports of their use in the formal sector; however, there was strong evidence that minors have been forced into prostitution (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits the employment of children under the age of 14; however, child labor is a problem. 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. The law limits the workday to 6 hours for youths between 14 and 18 years of age and sets a maximum normal workweek for youths at 36 hours. The PDDH estimated that 270,000 minors work, most as street vendors.

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector (see Section 5.). Children in these circumstances often do not complete schooling through the 9th grade, as the law requires. There were no reports of child labor in the industrial sector. It does not exist in the EPZ's.

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so; however, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside the urban formal sector. On June 15, the Legislative Assembly ratified ILO Convention 182 on the elimination of the worst forms of child labor. In September the ILO's International Program for the Elimination of Child Labor (IPEC) opened an office to help develop and support this effort. The Government continued to collaborate with IPEC on projects initiated in 1999. In March IPEC began a project with local NGO's, police, municipal officials, and fireworks producers to take 1,000 children out of the fireworks industry and prevent another 1,000 children from entering. The project includes community awareness programs, increased educational and health care opportunities for children, creation of alternative economic opportunities for families, and increased labor enforcement capacities. Similar programs target children in the coffee and shellfish extraction industries.

The Labor Code does not specifically prohibit forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Section 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The minimum wage is set by executive decree based on recommendations from a tripartite (government, labor, and business) committee. The minimum daily wage is \$4.80 (42.00 colones) for commercial, industrial, and service employees; \$3.57 (31.20 colones) plus food allowance for coffee plantation workers; \$2.61 (22.80 colones) plus food allowance for sugar and cotton plantation workers; and \$2.47 (21.60 colones) plus food allowance for all other agroindustrial workers. The minimum wage with benefits does not provide a decent standard of living for a worker and family.

The Ministry of Labor is responsible for enforcing minimum wage laws and generally does so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law a full-time minimum wage employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and billiard halls; the prohibition also applied 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 are outdated, and enforcement is inadequate. The Ministry of Labor attempts to enforce the applicable regulations but has restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms, and eating facilities, and inadequate ventila-

tion (problems with dust and heat). Some of the largest plants have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, it stipulates that any crime involving “commerce in women or children” automatically carries a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime. The Government enforces this provision.

The country is a source of women and children for trafficking in prostitution to Mexico and other countries. There are credible reports that women and children are lured to Mexico by procurers only to be sold to owners of establishments there who then force the trafficked persons to work off the debt as sex workers. According to Guatemalan authorities, street children from El Salvador are lured to border areas with Guatemala where they are then forced into prostitution by organized rings.

According to press reports, Honduran children were brought to San Salvador to beg for their sponsors. The Government investigated and took a number of children into custody. When their parents could not be found, they were turned over to the ISPM.

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## GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. In the January 1999 parliamentary elections, Prime Minister Keith Mitchell's New National Party (NNP) won all 15 seats and formed a new government. Subsequently, one Member of Parliament left the NNP and became the sole opposition member. The elections were conducted openly and fairly and were free of violence. The judiciary is independent.

The 755-member Royal Grenada Police Force is responsible for maintaining law and order. It is controlled by and responsive to civilian authorities. There were occasional allegations of abuse by the police.

Grenada has a free market economy based on agriculture and tourism. The projected annual real economic growth rate was 5.3 percent, compared with about 8 percent in 1999. Per capita gross domestic product was approximately \$3,205.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Violence against women is common. Child abuse is a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reported incidents of torture. Flogging, a legal form of punishment, is rare but has been used as punishment for sex crimes and theft cases.

There were no media reports of police brutality during the year. Allegations of police brutality are investigated internally by the police. The Police Commissioner can discipline officers in valid cases of brutality with penalties that may include dismissal from the force. The Police Commissioner has spoken out strongly against police use of unlawful force.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

*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 adhere to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

In January the Government announced establishment of a Truth and Reconciliation Commission with a broad mandate to examine events in the country from 1976 through 1991. The Commission's terms of reference specify the objective of recommending “general amnesty to certain persons who in the opinion of the Commis-

sion have given truthful information during the hearing of evidence.” The Commission is expected to review the convictions of former Deputy Prime Minister Bernard Coard and other leaders of the former People’s Revolutionary Government for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues. In 1986 a court convicted Coard and 18 other revolutionary leaders of murder and sentenced them to death; subsequently, 2 were pardoned, and the sentences of the remaining 17 commuted to life in prison. Of these, one person was granted parole to undergo medical treatment overseas. At year’s end, the Commission was preparing to begin its work.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The judiciary, a part of the Eastern Caribbean legal system, is 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 observe it 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 previously represented or reappoint earlier counsel if the appellant no longer can afford that lawyer’s services. Due to the backlog of cases caused by a shortage of judges and facilities, up to 6 months can pass before those charged with serious offenses face trial in the High Court. With the exception of persons charged with murder and foreign-born drug suspects, the courts grant 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 respect these prohibitions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The Firearms Act of 1968 and the Drug Abuse Prevention Act Number 7 of 1992 contain other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtain 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 respects these rights in practice. There are three weekly newspapers, and several other newspapers publish irregularly. One of the weeklies is affiliated with an opposition political party, but the three most widely circulated newspapers are independent and often critical of the Government. The newspapers routinely carry press releases by the opposition parties, including regular weekly columns expressing the opposition parties’ views.

There are six radio stations. The main station is part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government holds a minority share. The principal television station is also part of the GBN. A privately owned television station began broadcasting in 1992. A cable television company operates in most areas of the country. All newspapers, radio, and television stations enjoy independence from the State and regularly report 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 does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble for any peaceful purpose, and the Government respects this right in practice. Supporters of political parties meet frequently and hold public rallies; the authorities require permits for the use of a public address system but not for public meetings themselves.

The Constitution provides for the right to association, and the Government respects this right in practice.

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

*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 have 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 exists. The issue of provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years; in January 1999, Prime Minister Keith C. Mitchell's NNP was returned to office, securing all 15 seats in Parliament. Since then one Member of Parliament changed party affiliation to become the single elected opposition member, leaving the NNP with a majority of 14 seats.

There are no restrictions in law or practice on participation by women in government and politics. Four of the 15 elected Members of Parliament are women; there are no women among the 13 appointed Senators. Women account for 7 of the 13 permanent secretaries, the highest civil service position in each ministry; in addition, a woman is the Cabinet Secretary, the highest civil service position in the Government.

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

Local human rights groups operate without government restriction, and the Government cooperates with visits from international human rights organizations. In September Amnesty International established its regional office for the Eastern Caribbean in Grenada.

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

The Constitution prohibits discrimination based on race, place of origin, political opinions, color, creed, or sex, and the Government generally adheres to these provisions.

*Women.*—Women's rights monitors believe that violence against women remains a serious problem; however, they reported a decrease in such incidents during 1998, and more recent figures were not available. The police state that most cases of abuse are not reported, and others are 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 vary according to the severity of the incident. The Ministry of Women's Affairs was preparing a public relations campaign to increase awareness of the problem of domestic violence. In September 1999, a shelter for battered and abused women and their children opened in the northern part of the island, with medical and psychological counseling personnel on its staff. The home accommodates 20 persons.

Sexual harassment in the workplace is a problem.

There is no evidence of official discrimination in health care, employment, or education. Women frequently earn less than men performing the same work; such wage differences are less marked for the more highly paid jobs.

Prostitution is illegal.

*Children.*—The Social Welfare Division within the Ministry of Labor provides probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or foster 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 are 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. Women's organizations and other nongovern-

mental organizations increased their public awareness efforts to recognize and combat sexual abuse of women and children.

*People with Disabilities.*—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility for public buildings or services. The National Council for the Disabled and the National Children's Home assist the Government in placing disabled students into community schools. The Council also seeks assistance from architects and builders in the construction of ramps at hotels and public buildings, and ramps have been installed at some hotels and government buildings.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers are free to organize independent labor unions. Labor Ministry officials estimate that 35 percent of the work force is unionized. Union leaders play a significant role in the political process, and one labor leader serves in the Senate on behalf of the Grenada Trades Union Council (GTUC).

Workers in the private and public sectors are free to strike, once legal and procedural requirements are met. There were several incidents of industrial action, including brief strikes by teachers, port authority workers, and private sector workers. Workers at the water company and the telephone company briefly employed "work-to-rule" tactics. However, all such actions were short-lived and settled with the intervention of the Labor Commission, the Minister of Labor, or the Industrial Court. All unions are technically free of government control, and none receive government financial support. However, all of the major unions belong to one umbrella labor federation, the GTUC, which is subsidized by the Government. The GTUC holds annual conventions and determines some policies for member unions.

The GTUC and its unions freely affiliate 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. Legislation requires employers to recognize a union that represents the majority of workers in a particular business. The law prohibits discrimination by employers against union members and organizers. If a complaint of discrimination arises, mechanisms exist to resolve it. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers who are found guilty of antiunion discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of antiunion discrimination reported to the Ministry during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced or bonded labor, including that of children, and it is not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is illegal; however, children sometimes work in the agricultural sector. The statutory minimum age for employment of children is 16 years. Inspectors from the Ministry of Labor enforce this provision in the formal sector by periodic checks. Enforcement efforts in the informal sector are lax. The Constitution prohibits forced or bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

*e. Acceptable Conditions of Work.*—There are no minimum wage laws in force. Most workers, including nonunionized workers, receive packages of benefits from employers set by collective bargaining agreements between employers and labor unions. In many cases, overall wages and benefits are not sufficient to provide a decent standard of living for a worker and family. Many agricultural workers earn only about \$5.37 to \$5.55 (EC\$14.50 to EC\$15.00) per day.

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 includes Saturday morning work but does not exceed 40 hours.

The Government sets health and safety standards, but the authorities enforce them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.

## GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The 1985 Constitution provides for election by universal suffrage of a one-term president and a unicameral congress. On January 14, Guatemalan Republican Front (FRG) candidate Alfonso Portillo replaced President Alvaro Arzu of the National Advancement Party (PAN), following a free and fair December 1999 runoff election. The FRG also holds a majority (63 seats) in the 113-member Congress. Despite significant pledges, the Portillo administration took only limited steps to implement the Peace Accords that the Government concluded with the Guatemalan National Revolutionary Unity (URNG) guerrillas in 1996. The judiciary is independent; however, it suffers from inefficiency, intimidation, and corruption.

The Minister of Interior oversees the National Civilian Police (PNC), created in January 1997 under the terms of the Peace Accords. The PNC has sole responsibility for internal security; however, during the year some members of the predecessor National Police (PN) remained on duty, and awaited mandated training to become PNC officers. There are no active members of the military in the police command structure, but for the past 3 years, the Government has ordered the army to support the police temporarily in response to an ongoing nationwide wave of violent crime. On March 21, Congress enacted a law that enabled the Government to continue this practice. Under the new law, military personnel were not subordinated clearly to police control during joint patrols or operations; however, in practice army units generally were subordinated to police control in situations such as PNC road checkpoints, security deployments around prisons, and deployments in response to reported lynchings. The Constitution requires the Minister of Defense to be either a colonel or a general in the military. On January 14, a bill was submitted that would enable the President to appoint a civilian as Minister of Defense; in June Congress asked the Constitutional Court to determine the constitutionality of the bill. On October 3, the Court ruled that it would be unconstitutional for the President, as Commander in Chief, to name a civilian as the Minister of Defense, with the rank of assimilated general. The President has been slow to carry out his commitment to dissolve the Presidential Military Staff (EMP) and to have its functions taken over by a civilian agency. On October 13, Interior Minister Byron Barrientos announced the creation of a citizen security brigade in Santiago Sacatepequez as a pilot project that may be extended to other parts of the country. Some members of the security forces committed human rights abuses.

The mostly agricultural-based, private sector-dominated economy grew by approximately 3 percent during the year. Coffee, sugar, and bananas are the leading exports, but tourism, textiles, and apparel assembly are key nontraditional export industries. According to a study by the Ministry of Agriculture, 4 percent of producers control 80 percent of the land. About 40 percent of the work force are engaged in some form of agriculture, and subsistence agriculture is common in rural areas. According to the U.N. Development Program (UNDP), between 50 and 60 percent of the population depends on subsistence farming. Officially, inflation was about 5.5 percent during the year, although most observers acknowledge that the official price index does not measure accurately actual price movements. There is a marked disparity in income distribution, and poverty is pervasive, particularly in the large indigenous community. Approximately 83 percent of citizens live in poverty; this figure rises to 90 percent among the indigenous population. According to the UNDP, 59 percent of the population live in extreme poverty. Combined unemployment and underemployment was estimated at 46 percent. Per capita gross domestic product was approximately \$1,600 during the year. Remittances from citizens living abroad continue to grow as a major source of foreign currency.

The Government generally respects the human rights of its citizens in many areas; despite improvements in some areas, serious problems remain in others. Some police officers committed extrajudicial killings. The investigation of the 1998 murder of Catholic bishop and human rights activist Juan Gerardi Conedera neared conclusion, and five defendants, including an army captain, a retired army colonel, and a former EMP specialist, were scheduled to stand trial. In May a nongovernmental organization (NGO) acting as legal representative for 10 communities whose inhabitants were massacred by government forces in the early 1980's filed a criminal suit against the high command of the regime of former President Fernando

Romeo Lucas Garcia, alleging genocide and other crimes. There was one credible report of forced disappearance attributed to the police. There were credible reports that some police tortured, abused, and mistreated suspects and detainees. Despite greater numbers of police officers on duty throughout the country, and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. Arrests and administrative sanctions against police officers remained high. In May the Secretariat for Strategic Analysis (SAE), the President's Peace-Accords-mandated civilian think tank, announced that it had discovered a database containing the names and other personal information of over 650,000 persons given to the SAE by Military Intelligence; the database appeared to have been compiled several years earlier. In June an NGO released a two-volume publication about the army and its conduct, personnel, and organization during the internal conflict. Prison conditions remained harsh. Arbitrary arrest and detention and lengthy pretrial detention continued to be problems. Judges and other law enforcement officials are subject to intimidation and corruption, and the inefficient judicial system frequently is unable to ensure fair trials and due process. Efforts to reform the judiciary continued; however, the climate of impunity is a serious problem. The Government achieved convictions in a few important cases involving past human rights violations; however, more often cases remained pending for lengthy periods in the courts as defense attorneys took advantage of the inefficient judicial system and filed numerous, baseless motions and appeals to delay trial. Threats to and intimidation of witnesses, victims, prosecutors, and judges continued to be a serious problem. Although the Government increased the security it provided for judicial personnel and witnesses in key cases, many observers believe that the level of protection still is insufficient. From April to June, the number of threats against judicial personnel, journalists, and human rights workers increased significantly, further contributing to the public's already heightened sense of insecurity. Allegations persisted that the EMP infringed on citizens' privacy rights by monitoring private communications.

The U.N. Verification Mission in Guatemala (MINUGUA) continued to monitor peace implementation and human rights issues. On March 3 and August 9, the Government signed a series of agreements in which it accepted responsibility for a number of human rights cases pending before the Inter-American Commission on Human Rights (IACHR). By December 5, the Government was negotiation with the IACHR on 79 of 140 pending cases. The Government began to pay reparations in a number of key cases. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against the disabled and the indigenous population. Workers' efforts to form unions and participate in union activities are hindered by an ineffective legal system. Child labor and trafficking in women and children also are problems. Lynchings and mob violence continued, but at a significantly reduced rate, due in part to increased action by the PNC to combat lynchings. The Government conducted anti-lynching campaigns, achieved a very few convictions in past lynching cases, and made numerous arrests; however, fewer than a third of the hundreds of past lynching cases have gone to trial, and at year's end only one person was serving a prison sentence for taking part in a lynching. There was limited progress in the criminal case against a group of armed civilians who held the leaders of the principal banana workers' union at gunpoint in October 1999 and forced them to resign from both their jobs and union positions.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no allegations of politically motivated killings by government agents; however, members of the police committed some extrajudicial killings. The Government demonstrated an increased willingness to arrest and prosecute those responsible and achieved some convictions in high-profile cases; however, in many cases, the scarcity of law enforcement resources and a weak prosecutorial and judicial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators.

The number of reported extrajudicial killings continued to decline. The office of the Human Rights Ombudsman (PDH), which generally compiles data based on personal interviews with victims and their families, reported 13 complaints of extrajudicial killings during the year, compared with 16 complaints in 1999 and 32 complaints in 1998. Based on 20 complaints alleging 21 extrajudicial killings in the 9-month period between October 1, 1999, and June 30, MINUGUA investigated 15 cases and confirmed 13. It reported 27 such complaints in the first 9 months of the year.

MINUGUA's 11th Human Rights Report, released on August 31, noted a number of extrajudicial killings by members of the PNC. Many of these cases involved accidental discharges of weapons, drunken misbehavior by on- or off-duty officers, questionable crowd control techniques, or poor judgment by officers who lost control of unstable situations involving angry crowds or persons resisting arrest. Other cases presented signs of premeditation and malicious intent. In many of these cases, there was effective investigation by both the PNC's Office of Professional Responsibility (ORP) and the prosecutors of the Public Ministry; however, in some cases, there was credible evidence of a coverup by PNC officers, the ORP, or both.

On February 5, PNC officers without a warrant conducted a sting operation against street vendors of pirated music recordings in an outdoor market in Guatemala City. When a confrontation ensued with angry vendors, a combined patrol of additional police and army units was called to provide backup. As the situation deteriorated, police forces fired their weapons into the air to regain control of the crowd that had gathered. During the confusion, street vendor Francisco Ixcoy Osorio was shot and killed; other persons present were injured. The authorities investigated the killing and arrested several suspects. On June 5, the Public Ministry accused six PNC officers and three army soldiers of homicide. The PNC officers claimed that colleague Alfredo Saso Perez killed Osorio and that two of their superiors—Commissar Virgilio Ramos and Chief of Operations Diones Arriaza Solis—used death threats and false testimony to organize a coverup to impede the Public Ministry's investigation. In June the judge released the accused on bail and provisionally closed the case due to lack of evidence. The Public Ministry appealed this decision, arguing that a case should be pursued against Ramos and Arriaza, and that Saso Perez should be arrested. The Fourth Appellate Court rejected the appeal; however, the Public Ministry continued its investigation, and hoped to reopen the case if new evidence is found.

On March 6, in San Jose Acatempa, Jutiapa, Byron Florian Yanez and Jose Mendez Interiano, two police officers in a PNC patrol car, shot off-duty PNC officer Sergio Barahona Arana from behind and killed him. MINUGUA found that the local PNC falsified its report of the incident, in which it claimed that Barahona had a gun in his hand when he died and that there had been a shootout with the other police officers. There was credible evidence that police later conducted searches and fired weapons into the front of a school building to simulate a gun battle as part of their coverup. MINUGUA also cited evidence that the ORP participated in the coverup by altering its investigative report. Florian Yanez was a fugitive until he was found dead of a gunshot wound on May 31 in Jutiapa. On April 5, the authorities arrested Mendez Interiano; he was in jail awaiting trial at year's end, accused of participating in the coverup. In addition, the Police Commissioner of Jutiapa has not collaborated with the Public Ministry prosecutor in the case; he refused to turn over photographs of the crime scene and the weapons used in the crime.

On April 19, in Coban, Alta Verapaz, Denis Fredy Cucul Tun argued with PNC officers about the fact that his car was parked in a street that was to be cleared for a religious procession. Officer Rolando Salvador Rubio Choc took Cucul to the opposite side of the street, held him against a wall at arm's length, and shot him in the chest at pointblank range, killing him. Hearing the shot, a crowd quickly gathered and sought to lynch Rubio, who fled to the nearby police station. An ORP investigation quickly established Rubio's responsibility for the killing, despite his argument that his weapon accidentally discharged, and he was jailed while the Public Ministry conducted its investigation and prepared to go to trial. MINUGUA confirmed in its 11th report that PNC officers had tried to cover up the facts of the case and impede the Public Ministry's investigation. MINUGUA also noted that Rubio had violated PNC protocols by carrying a weapon that was loaded and contained unauthorized expanding cartridges.

In some cases, detainees or prisoners died while in the custody of PNC officers or Criminal Investigation Service (SIC) detectives, apparently due to torture or abuse (see Section 1.c.).

On March 11, detainee Luis Armando Colindres was found dead in his cell at a PNC substation in Zone 12 of the capital, apparently the victim of strangulation. The PNC claimed that Colindres hanged himself, but the forensic report found injuries consistent with a struggle to resist being strangled. A judge ordered the detention of PNC officers Santos Medardo Recinos Moran, Elman Avigail Garcia Pineda, and Jeremias Santiago Godoy Ramos on charges of homicide. On June 7, the judge granted a defense motion to modify the charges to material document fraud (because PNC reports were altered) and abandonment of duty and released the defendants on bail. A Public Ministry appeal of these decisions was pending at year's end.

Although most cases from past years remained unresolved, there were some convictions during the year for past extrajudicial killings by members of the security

forces. In contrast to 1999, there were fewer judicial setbacks in human rights cases. At year's end, trials continued in several high profile cases. In many other cases of past extrajudicial killings, there was little or no progress, often due to the tactics of defense attorneys who frequently abused the legal system by filing dilatory motions to derail impending trials against their military clients.

The investigation entered its final stages and pretrial preparations began against five defendants in the April 1998 murder of Bishop Juan Gerardi Conedera, the Coordinator of the Archbishop's Office on Human Rights (ODHAG). President Portillo promised in his inaugural address that all state institutions would cooperate fully in the investigation. Bishop Gerardi was killed just 2 days after his public delivery of the final report of the "Recovery of Historical Memory" project, which held the military and its paramilitary allies responsible for more than 90 percent of the human rights violations committed during the 36-year-long internal conflict. After 2 years under Public Ministry witness protection, on January 17, former indigent Ruben Chanax Sontay gave additional testimony before Judge Flor de Maria Garcia Villatoro in which he implicated several individuals in Gerardi's murder. Based largely on Chanax's new testimony, on January 21, Judge Garcia issued arrest warrants for five suspects: Retired army Colonel Byron Disrael Lima Estrada; his son, army Captain Byron Miguel Lima Oliva; former EMP Specialist Jose Obdulio Villanueva Arevalo; Father Mario Leonel Orantes Najera; and former parish house cook Margarita Lopez. (Lopez, who was charged with being an accessory after the fact, had been detained briefly in 1998 and then released.) Lima Estrada, Lima Oliva, and Margarita Lopez were arrested on January 21, followed by Villanueva on January 22. On February 9, Father Orantes, who had been arrested and charged with the murder in October 1998, then released in February 1999, secretly returned to the country and immediately checked into a hospital, claiming that his health was too poor to be sent to jail. On February 15, Judge Garcia granted Orantes permission to remain in the hospital, based on a court-ordered medical examination that confirmed his health problems.

Shortly after Villanueva's arrest, his defense attorney presented evidence indicating that he was actually in prison in Antigua on the night of Gerardi's murder, completing the final days of his prison sentence for the 1996 killing of Pedro Sas Rompich. On February 25, Judge Garcia released Villanueva, based on this new information and a lack of Public Ministry evidence to the contrary. On March 15, lead prosecutor Leopoldo Zeissig released the results of a handwriting analysis that demonstrated that Villanueva had not signed personally for his EMP paychecks in prison for several months, including at the time of the Gerardi murder. (Villanueva had remained on the EMP payroll while serving his prison sentence.) In early April, Zeissig also produced a former cellmate of Villanueva's, Gilberto Gomez Limon, who testified that Villanueva frequently was allowed to leave prison, including on the night of the Gerardi murder. This new evidence convinced Judge Garcia to order Villanueva's rearrest, which occurred on April 7.

On March 16, Judge Garcia ruled that prosecutors had presented sufficient evidence against Margarita Lopez to send her case to trial on charges of participating in a criminal coverup. Also on March 16, Zeissig filed charges against navy Captain Carlos Rene Alvarado Fernandez for falsifying Villanueva's signatures on his paycheck receipts and lying to conceal the fraud. On March 21, another court-ordered medical exam confirmed that Father Orantes should continue to spend his pretrial detention in the hospital. In April Judge Garcia ruled that Father Orantes must face trial on charges of murder, based largely on Chanax's testimony and contradictions in Orantes' own statements. On April 24, Chanax left the country under Public Ministry witness protection due to concerns for his safety.

On April 26, the Catholic Church was granted status as a private plaintiff in the case. ODHAG, as the Church's legal representative, gained the right under the law to present witnesses and other evidence at trial and to prosecute the accused alongside the Public Ministry prosecutors. On May 9, the Fourth Court of Appeals agreed with defense attorneys representing Father Orantes and Margarita Lopez that ODHAG did not have sufficient "juridical standing" to act as private plaintiff in the case against them. However, the ruling did not apply to ODHAG's participation in the case against the three military suspects.

On May 18, Judge Garcia charged the three military suspects, Lima Estrada, Lima Oliva, and Villanueva, with the extrajudicial execution of Bishop Gerardi. The charge of "extrajudicial execution," unlike the charge of murder, generally is reserved for members of security forces on active duty, although Lima Estrada was not on active duty in 1998. The judge's decision was based largely on the testimony of witness Ruben Chanax Sontay, which placed all three military defendants at or near the crime scene on the night of the murder. In late July, witness Juana del Carmen Sanabria, the former administrator of Bishop Gerardi's parish house, left

the country due to death threats. A total of seven judges, prosecutors, and witnesses have left the country due to threats and intimidation in the case. On August 1, Lima Oliva was involved in a disturbance in prison and was injured slightly. He claimed that other inmates were trying to kill him, but the other inmates claimed that he started the fight and was trying to take control of the cellblock. During the scuffle, several items, including a planner/organizer, disappeared from Lima Oliva's cell and later were found in the possession of Public Ministry prosecutors, whom Lima Oliva accused of masterminding the disturbance for the purpose of "stealing" the documents. On August 7, Judge Garcia granted conditional freedom to Margarita Lopez, allowing her to await trial under house arrest rather than in prison. Another court-ordered medical exam in August confirmed that Father Orantes' poor health required that he remain hospitalized.

After one judge recused herself for a supposed friendship with Lima Estrada and another resigned after being challenged for bias by ODHAG, in July a three-judge panel to hear the case at trial was constituted, with Judge Eduardo Cojulun presiding, joined by Judges Jazmin Barrios and Carlos Chin. A number of appeals and motions filed by the defense attorneys in July and August delayed the trial against all five defendants from October until early 2001. Prosecutors acknowledged publicly that they are pursuing a political motive theory for the upcoming trial, arguing that Gerardi was killed by current or former members of the military with the assistance of Father Orantes and Margarita Lopez. MINUGUA confirmed multiple complaints by Judge Garcia and other judicial colleagues, prosecutors, witnesses, and ODHAG staff of numerous threats and acts of intimidation, including telephone threats, electronic surveillance, and observation by unknown individuals following them on foot or in vehicles (see Sections 1.e. and 4).

Negotiations continued regarding indemnification for the family of Pedro Sas Rompich, who was killed in 1996 by Jose Obdulio Villanueva Arevalo, who Villanueva was acting as a bodyguard for then-President Arzu. Villanueva has since served a commuted prison sentence for the killing and spent most of the year in jail as one of five suspects in the murder of Bishop Gerardi. A court-ordered damages award to be paid by Villanueva to the victim's survivors remained pending.

On April 28, the Supreme Court of Justice (CSJ) annulled an appellate court's December 1999 verdict in the Xaman massacre case, in which an army patrol entered a refugee-returnee community at Xaman, Alta Verapaz, in October 1995, killing 11 persons and injuring 30 others. The Appellate Court had found 15 members of the patrol innocent and resented the remaining 10 members to 12-year prison sentences. The prosecutor had appealed the Appellate Court's decision, feeling that the sentences were too lenient. The CSJ decision remanded the case back to the trial court for a retrial. At year's end, the case continued to be delayed by appeals that must be resolved before the retrial can begin. The original trial was the longest in the country's history and was marked by numerous death threats and acts of intimidation against judges, prosecutors, witnesses, and family members of the victims.

Two former police officers sentenced to death in 1996 in the so-called Patrol No. 603 case remained on death row pending the outcome of several appeals by their defense attorney. The case stems from a 1995 murder and attempted murder in what appeared to be a "social cleansing" operation, in which persons deemed socially undesirable (e.g., gang members, local delinquents, or convicts released from prison) are found murdered in circumstances suggesting that the killing was planned and carried out by an organized group. Similarly, there was no progress in the related case before the IACHR.

The August 1994 killing by police of four workers at La Exacta farm remained under investigation, and the criminal case remained suspended. The parties continued to seek a resolution through the IACHR's amicable settlement procedures. Negotiations continued regarding a settlement of the pending labor court charges, with intervention from the Labor Ministry and the Presidential Human Rights Commission (COPREDEH) to install a Conciliation Court to resolve the dispute. The Center for Legal Assistance in Human Rights (CALDH) continued to represent the families of the deceased, the injured, and those who lost their jobs and homes during the illegal eviction. On August 9, President Portillo signed an agreement with the IACHR in which the Government acknowledged its responsibility for failure to provide justice in the case and promised both to pay reparations and pursue renewed criminal investigations against those responsible for the violence.

An appellate court ruling remained pending in the case of the 1994 murder of Constitutional Court president Epaminondas Gonzalez Dubon. Both the prosecution and defense appealed aspects of the May 1998 murder conviction of Marlon Salazar and Roberto Antonio Trabanino, who were serving 27-year prison sentences for the crime at year's end. A third suspect, Mario Rene Salazar, remained at large. On August 8, another suspect implicated in the Gonzalez Dubon murder, Elser Omar

Aguilar, was found dead in the trunk of a car in Guatemala City. His body showed signs of torture. In February an appellate court reaffirmed the 14-year jail sentence for narcotics trafficking imposed in July 1999 on former Lieutenant Colonel Carlos Rene Ochoa Ruiz, widely suspected of being the intellectual author of the Gonzalez Dubon murder.

Defense attorneys in the case of the murder of anthropologist Myrna Mack Chang continued to file appeals in order to delay the proceedings, and the courts continued to fail to resolve those appeals in a timely manner. In January 1999, Judge Henry Monroy ordered a trial of the three high-ranking military officers accused of ordering the 1990 murder: Retired General Edgar Augusto Godoy Gaitan, Colonel Juan Valencia Osorio, and Colonel Juan Guillermo Oliva Carrera. A trial originally scheduled for early in the year was delayed by appeals filed by defense attorneys. On March 27, Myrna Mack's sister, Helen Mack Chang, met with CSJ representatives to learn why there had been no decision regarding a defense appeal filed on November 4, 1999, nearly 5 months earlier (the law sets a 30-day time limit for resolving such appeals). CSJ representatives had no answer at that March 27 meeting, but on March 29, they announced that they actually had issued a decision in the appeal on March 23. That decision denied the appeal and fined the defense attorney approximately \$130 (1,000 quetzals) for filing a frivolous appeal. On March 31, the defense attorney filed another appeal, this time of the CSJ's March 23 decision. On May 8, that appeal was recognized by the Constitutional Court, which set a May 11 date for a hearing on the merits. However, the Court still had not resolved the appeal at year's end. EMP member Noel de Jesus Beteta, who confessed to the killing, continued to serve a 30-year sentence. On March 3, the Government signed an agreement with the IACHR in which it accepted responsibility for Myrna Mack's murder as well as the denial of justice and proposed an amicable settlement, which was refused by Helen Mack. A commission composed of a Guatemalan jurist and an international expert was established under IACHR auspices to monitor due process in the case.

In November the Government reached a settlement with the InterAmerican Court of Human Rights to pay reparations to the survivors of the 1990 killing of three street children—Julio Roberto Caal Sandoval, Jovito Josue Juarez Cifuentes, and Anstraun Villagran—and two indigent adults, Federico Clemente Figueroa Tunchez and Henry Giovanni Contreras, by police officers (see Sections 4 and 5). In December 1999, the Court ruled that there was sufficient evidence that police officers Samuel Rocael Valdes and Nestor Fonseca were responsible for the deaths. The Court also ruled that the Government failed to protect the rights of the victims and provide them with justice.

On August 9, the Government signed an agreement before the IACHR in which it accepted responsibility for its failure to provide justice in the unresolved disappearances in 1989 of 10 university students, 5 of whom were later found dead, and pledged to negotiate an amicable settlement with the victims' survivors, including reparations and criminal prosecution of those responsible.

On August 11 and 12, the Inter-American Court held hearings to set the amount of compensation owed to the families of the victims in the "white van" case; the Court's decision remained pending at year's end. Separately, the Government also offered to enter into settlement negotiations with the victims' survivors. In March 1998, the Court had found the Government liable in the case, in which members of the now-disbanded Treasury Police kidnaped and then either released or killed 11 persons in 1987/88.

In the case of the 1982 military massacre at Dos Erres, Peten, prosecutors secured relocation abroad for two key witnesses and their families in exchange for their testimony against their former army comrades. On March 17, former army Sergeants Favio Pinzon Jerez and Cesar Franco Ibanez testified before a judge about the massacre of more than 200 unarmed civilians on December 6–8, 1982, in the village of Dos Erres. In their testimony, they implicated several former comrades and gave detailed accounts of the massacre, before departing the country under witness protection from the Public Ministry. Based on their testimony, prosecutors obtained arrest warrants against 16 former members of the implicated army patrol. Defense attorneys eventually contested 10 of those arrest warrants, arguing that their clients should be protected from prosecution by the National Reconciliation Law, which grants limited amnesty for certain acts committed during the internal conflict. The Constitutional Court granted temporary injunctions against the arrest warrants so that the petitions could be decided on their merits. On July 7, an appellate court found the petitions to be without merit and denied them. The defense appealed that ruling to the Constitutional Court, where a decision remained pending at year's end. The PNC did not execute six of the arrest warrants, nor did they present the warrants to the military, even though many of the suspects still were on active duty

at the time. On December 4, the prosecutor publicly urged the PNC to act on the warrants of four military suspects, including Vicente Alfonso Bulux, Santos Lopez Alonzo, and Fredy Antonio Samayoa Tobar.

Army Sergeant Major Manuel Pop Sun, who was arrested in April and later released under a temporary injunction, remained the only individual to have been arrested in the Dos Erres case by year's end. On June 14, Pop Sun appeared at the MINUGUA offices claiming that the army had imprisoned him in a military hospital, kept him drugged with antipsychotic medications, and was trying to kill him because of his knowledge of the Dos Erres massacre. Pop Sun offered his testimony to prosecutors in exchange for witness protection, but later jumped from a second-story window and fled from Public Ministry protection. Prosecutors stressed that Pop Sun was free to depart at any time, as his participation in the witness protection program was voluntary. His odd behavior raised speculation about the true intent of his offer to testify, and he remained a suspect in the case at year's end. In its 11th Human Rights Report issued in August, MINUGUA noted the presence of Military Intelligence observers when it tried to interview Pop Sun at the Military Medical Center. MINUGUA also found that Pop Sun had been overmedicated while in the military hospital and concluded that his treatment there amounted to torture and abuse.

On March 3, the Government signed an agreement before the IACHR in which it recognized its institutional responsibility for the Dos Erres massacre. Represented by COPREDEH, the Government pursued settlement negotiations with the victims' survivors, who were represented by two NGO's—Families of the Disappeared in Guatemala (FAMDEGUA) and the Center for Justice and International Law. In those negotiations, the Government agreed in principle to prosecute aggressively the material and intellectual authors of the massacre, pay for reparations and other community assistance for the survivors, create a historical document that recounts what happened at Dos Erres, and erect a memorial in honor of the victims. Those negotiations continued at year's end, with reparations as the central focus. On December 1, in accordance with recommendations of both the IACHR and the Inter-American Court, the Government created a Special Commission to Locate and Identify Families and Victims of the massacre at Dos Erres. On December 7, a monument to the victims of the Dos Erres massacre was erected at the cemetery of the Aldea Las Cruces.

On February 1, an appeals court in Coban substituted 50-year prison sentences for the death penalties handed down by a trial court in October 1999 against three former Civilian Defense Patrol (PAC) members in the March 1982 massacres at Rio Negro and Agua Fria, two villages in Rabinal, Baja Verapaz. The Appeals Court gave the three defendants, Carlos Chen, Francisco Gonzalez Gomez, and Fermin Lajuj, 30 years in prison for each of the two murders proven at trial, for a total of 60 years' imprisonment; however, the law sets the maximum prison sentence at 50 years. In June a survivor of the Rio Negro massacre, who was adopted and raised by a foreign family, returned for the first time. She was reunited with surviving members of her family and called on the Government to provide reparations for the impoverished survivors of the conflict-era massacres.

On May 2, CALDH filed a lawsuit on behalf of 10 communities in Quiche and Chimaltenango whose citizens were massacred by government security forces between October 1981 and March 1982, resulting in over 850 deaths. The suit alleges crimes, including genocide, committed by high command of the regime of former President Fernando Romeo Lucas Garcia. In addition to Fernando Lucas Garcia, the suit also names his brother (and former army Chief of Staff) Benedicto Lucas Garcia and former Defense Minister Luis Rene Mendoza as defendants. By the end of the year, prosecutors had made significant progress in their investigation. The suit is the first genocide case to be brought in a Guatemalan court and is a precursor to a similar suit that CALDH plans to file against the regime of former de facto President and current President of Congress Efraim Rios Montt.

There was no apparent progress in recapturing 12 former PAC members convicted in 1999 for the 1993 killing of Juan Chanay Pablo in Colotenango, Huehuetenango, and then freed in April 1999 from a police station by a crowd armed with sticks, machetes, homemade explosives, and smoke bombs. Although arrest warrants were issued to recapture the escapees, they remained at large despite credible reports that they had returned to their home region of Colotenango and were being protected by former PAC comrades. There also was no progress in the investigation of Brigadier General Luis Felipe Miranda Trejo, the alleged intellectual author of the crime, who was elected to Congress in the November elections and therefore enjoys legislative immunity from prosecution. According to the Government, amicable settlement negotiations between the Government and the victim's survivors, mandated by the IACHR, neared completion by year's end. The Government continued to pro-

vide security for several human rights activists in Colotenango in accordance with a resolution of the Inter-American Court.

The Supreme Court ordered the Public Ministry to conduct a new investigation into the 1993 murder of newspaper publisher and former presidential candidate Jorge Carpio Nicolle and three associates. Suspect Francisco Ixcoy Lopez, former PAC member, remained at large, despite the fact that the Carpio family had located him at one time and informed the authorities of his whereabouts. The criminal case remained open, but the Public Ministry made no efforts to advance the case and the victim's family withdrew the charges. The case before the IACHR for the Government's failure to provide justice remained pending at year's end, as did a motion to send the case forward to the Inter-American Court. The family of Jorge Carpio requested that the IACHR authorize that the case be taken up by the Court, since they believed that justice was not being served in the Guatemalan courts. The Commission's decision was pending at year's end.

On January 31, a court convicted former PAC member Vicente Cifuentes Lopez of homicide in the 1985 murder of American journalist Nicholas Blake and sentenced him to 28 years' imprisonment. In May police and prosecutors located three other suspects in the case in the remote Cuchumatanes Mountains; however, the Government made no effort to recapture the suspects and they remained at large at year's end. On March 30, the Government paid restitution of \$161,000 (1 million quetzals) to Blake's survivors as mandated by the Inter-American Court.

On February 15, an appeals court upheld the November 1999 trial verdict in which former military commissioner Candido Noriega was found guilty of six murders and two cases of manslaughter and sentenced to 220 years in prison. On August 24, the CSJ rejected a similar appeal and upheld both the guilty verdict and the 220-year sentence. (In 1996 the Penal Code was modified to extend the maximum sentence for murder from 30 to 50 years' imprisonment. Because the case began prior to this change, the commuted death sentence for the two murder convictions is for 30 years.) There was no progress in the court-ordered investigation of Noriega's alleged accomplice, Juan Alesio Samayoa, or in the investigation of military officers who served at the so-called Base 20 in Quiche in 1982, the suspected intellectual authors of some or all of Noriega's actions.

On August 28, a court acquitted Lazaro Obispo Solorzano Lopez and Henry Orlando Hernandez Montepeque of the May 1999 kidnaping and murder of oil refinery businessman Edgar Ordonez Porta. Neither prosecutors nor the private plaintiff, the victim's brother Hugo Ordonez Porta, pursued a serious case against the accused during the trial; instead, Hugo Ordonez presented witnesses and evidence that asserted that members of Military Intelligence may have committed the murder. Ordonez also claimed that Military Intelligence conducted a parallel investigation that significantly interfered with the official investigation and may have led the Public Ministry and the PNC into conspiring in a coverup. Also on August 28, the trial court acknowledged the parallel investigation and interference, ordered a new investigation, and left the case open with respect to additional suspects, including several high-ranking military and police officials, as well as the former prosecutor in the case. The motive for the killing remained unclear. During the year, the Attorney General named Leopoldo Zeissig as prosecutor; he was reviewing testimony at year's end.

There was no progress in the 1997 killing of congressional Deputy Joel Salomon Mendoza Pineda and his nephew. The court case against two former congressional deputies was dismissed, and there was no case pending against the former mayor of Escuintla, a suspected intellectual author. In August 1998, the court of appeals upheld the 50-year prison sentence for the four persons convicted of the murder. In October 1999, the CSJ upheld the immunity of Alfred Reyes and Guillermo Deominguez and determined that the evidence against the legislators was insufficient to oblige them to go to trial.

On June 1, the National Security Archive, an NGO, publicly released its two-volume publication entitled "The Guatemalan Military: What the United States Files Reveal." Volume One is a database of Guatemalan military officers and the positions they held during the internal conflict. Volume Two is a compilation of over 50 key declassified documents said to be representative of the thousands of documents collected during the group's "Guatemala Documentation Project," which was begun in 1994 to support the Historical Clarification Commission's efforts to catalog the devastation of the 36-year internal conflict. Human rights activists viewed the report largely as a tool to determine the responsibility of individual military officers for specific human rights abuses during the internal conflict.

There was little progress in the investigations into the "military diary," an apparently genuine military intelligence dossier that documented the abduction, torture, or killing of 183 persons by security forces during the 1983-85 period. The National

Security Archive had released that document publicly in May 1999. The Government responded by appointing 35 prosecutors to handle the cases and a supervising prosecutor designated with overall coordination. Public Ministry investigators made slow progress during the year and learned that some of the victims named in the document still were alive and living either in the country or abroad. The unit that compiled the document has not yet been identified.

Exhumations of clandestine cemeteries continued throughout the year. Most of the bodies recovered have been those of victims of military or paramilitary killings in the 1980's. Forensics groups use the information obtained from the exhumations to verify eyewitness reports of massacres, of which 669 were recorded by the Historical Clarification Commission, and to determine, at least in general, who might have been responsible. Forensic research and DNA testing have identified some of the remains. The forensic evidence has been used in some criminal cases. During the year, ODHAG's Forensic Anthropology Unit exhumed bodies from eight sites in Alta Verapaz, Quiche, Santa Rosa, Huehuetenango, and San Marcos. As of September, workers at these sites had found 419 skeletons and identified 28. By the end of August, the forensic team of the Office of Peace and Reconciliation of the Quiche Diocese conducted excavations of 44 sites in Quiche, where they exhumed a total of 95 human remains, of which 19 were infants and none were identified. Twelve of these sites (containing 28 remains) were found within the grounds of the Joyabaj Parochial Convent, which served as a military detachment headquarters during the 1980's. Threats and intimidation against persons working on exhumations continued, but at lower levels than in previous years. ODHAG reported attempts by landowners to prevent exhumations on their property and, in some cases, suspected clandestine cemetery sites had been disturbed just prior to their investigation. At the end of the year, ODHAG's forensic anthropology unit had ceased work while waiting for a change in funding. Through August the Forensic Team of the Office of Peace and Reconciliation of the Quiche Diocese conducted exhumations at 44 different clandestine cemeteries throughout Quiche department.

In October the prosecutor requested that the judge close the case of the clandestine cemetery alleged in 1999 to be on the grounds of a former Mobile Military Police (PMA) facility. An October 1999 excavation failed to produce any human remains. There was little progress in the investigation into metal fragments found at the site that prosecutors believe were once license plates used during clandestine operations. The delays were due in part to the January resignation of prosecutor Fernando Mendizabal, who feared reprisals from the new FRG-led Government for his role in the investigation into the nationwide smuggling ring led by Alfredo Moreno.

In December press reports suggested that the Guatemalan Forensic Anthropology Foundation (FAFG) recently unearthed the remains of 20 persons in a clandestine cemetery located near San Martin Jilotepeque, Chimaltenango, in what was used as a military post from 1982 to 1986. FAFG staff reportedly believe that the cemetery is one of at least seven in the area.

The criminal case filed in Spain in December 1999 by indigenous leader and 1992 Nobel Peace Prize laureate Rigoberta Menchu Tum against eight former military and civilian leaders for human rights abuses committed during the 36-year internal conflict was not heard by the court. The suit alleged that the defendants, including former de facto President and current president of Congress Efraín Ríos Montt, former President and retired General Fernando Lucas García, former de facto President Oscar Humberto Mejía Victores, and five other defendants were responsible for "crimes against humanity," including genocide, torture, and terrorism. The suit cited 3 cases—the 1980 assault on the Spanish Embassy in which more than 30 persons died, the killing of Menchu's mother and 2 siblings, and the killing of 4 Spanish priests over the course of the conflict.

On April 29, Spanish Judge Guillermo Ruiz Polanco denied the third motion in 4 months by Prosecutor Pedro Rubira to dismiss the Menchu suit. This motion was based on the argument that the cases presented by Menchu effectively were adjudicated by the signing of the Peace Accords in 1996, which ended the internal conflict. (The earlier motions had contested Spanish jurisdiction in the case.) During the year, Judge Ruiz Polanco called several witnesses to testify in Spain, including Congresswoman Nineth Montenegro, former Spanish Ambassador to Guatemala Maximo Cajal, former Historical Clarification Commission member Alfredo Balsells Tojo, and Jesuit author Ricardo Falla.

Early in the year, several organizations and individuals attempted to join the Menchu suit, sometimes trying to add numerous additional crimes and defendants. For example, in April Human Rights Ombudsman Julio Arango attempted to join the suit with additional complaints against Lucas García and Mejía Victores. Similarly, in April the human rights NGO the Mutual Support Group (GAM) added 8

additional defendants from the Vinicio Cerezo Arevalo regime to the Menchu suit, accusing former civilian and military leaders of the extrajudicial killings of 53 university student leaders between 1984 and 1990. In May the family of one of the four Spanish priests whose murder constitutes part of the Menchu complaint joined the suit. On December 13, the Spanish court decided not to hear the case. The decision was based in part on the fact that it was not clear that justice in the case could not be achieved in Guatemala, since a genocide case had yet to be tried by the Guatemalan court system.

Attorneys for Mejia Victores made little progress in their counter-charges against Menchu in Guatemalan criminal court, in which they accused her of treason, violating the Constitution, and failing to report a crime by filing charges in a Spanish court rather than a Guatemalan court. In early August, the Spanish court denied a request by prosecutor Candido Bremer for a copy of Menchu's complaint, which Bremer intended to use in his investigation of Mejia Victores' accusations against Menchu. In response, Menchu filed a brief with the Guatemalan court in which she defended her right to file the Spanish lawsuit, based on Guatemala's international treaty obligations that provide for the extraterritorial prosecution of crimes against humanity and genocide. The press reported in November that the counter-suit brought against Menchu in Guatemala by attorneys for Mejia Victores had been closed.

Menchu and various staff members of her human rights NGO, the Rigoberta Menchu Tum Foundation, have been targeted with numerous death threats and other acts of intimidation since the lawsuit was filed in Spain. The number of death threats against Menchu increased sharply in April and May, as it did generally among the human rights community and journalists (see Sections 2.a. and 4.).

Intimidation of witnesses continued to be a problem, although at less than 1999 levels; there were no reports of the killing of witnesses. For example, two witnesses in the Bishop Gerardi murder case, Ruben Chanax Sontay and Juana del Carmen Sanabria, left the country due to threats and intimidation. Several potential witnesses were intimidated in the case of murdered Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda. Several witnesses in the Ordonez Porta case also were threatened.

There were some allegations of politically motivated killings by nonstate actors during the year, and the authorities demonstrated a willingness to investigate these murders. In some of these cases, there was insufficient evidence to conclude whether or not the killing was politically motivated.

On June 22, Oswaldo Monzon Lima, Secretary General of the 90member Union of Gasoline Transport Drivers in Escuintla, was killed. His body, shot once in the back, was found on June 23 in a thicket across the highway from his abandoned tanker truck. Since 1998 Monzon Lima had been involved in an ongoing dispute with his employer at the time, president of the Association of Fuel Transporters Mario Ortiz Barranco. In 1998 Monzon Lima had filed a complaint with the police that Ortiz had threatened to have him killed, based on a suit in the labor courts alleging that Ortiz had fired illegally three union leaders within weeks of the union's formation. In addition, Monzon had presented the Ministry of Energy and Mines with a file that outlined irregularities in Ortiz's conduct of his gasoline transportation business, including his use of forged permits and licenses. On June 19, Monzon refused to accept a settlement offer from Ortiz in the suit over the illegal firings. He was murdered 3 days later. By September the Public Ministry's investigation was proceeding normally with Ortiz as the primary suspect.

On February 29, Erwin Haroldo Ochoa Lopez and Julio Armando Vasquez, two environmentalists working for the National Council for Protected Areas (CONAP), a governmental environmental protection agency, were killed outside a restaurant in Puerto Barrios, Izabal. MINUGUA noted serious mishandling of the crime scene, including the fact that police would not allow firemen to administer first aid to the victims, who still were alive when firemen first arrived on the scene, but who died shortly thereafter. The Public Ministry's investigation eventually focused on retired army Colonel Sergio Otoniel Ponciano, who owned a private security firm and a ranch in a protected area. In August the authorities arrested Ponciano and charged him with murder. Separate investigations by SIC detectives and Public Ministry prosecutors underscored the lack of coordination between these two organizations on both the local and national levels.

In October Maura Ofelia Paniagua Corzantes, civil law coordinator for the law clinic at San Carlos, was murdered. She was in charge of receiving criminal complaints, particularly complaints of violence against women, on behalf of the University, which is recognized under domestic violence law. The day before Paniagua was killed, someone came to the door to see her; her maid told the person that she was not available and the person went away. The following day the same person re-

turned and shot her repeatedly. At year's end, the Public Ministry was investigating the case to determine a motive and suspect for the killing.

On March 2, on a road near Coban, Alta Verapaz, four armed men attacked a group of attorneys, judicial personnel, representatives of the Human Rights Ombudsman's office, and farmers, leaving three persons dead and three wounded. The group was travelling to a meeting where it planned to mediate a dispute between ranchers and small farmers over the use of a new road. PNC officers later arrested rancher Hermelindo Caal Rossi and an unidentified minor for the killings. The case was under investigation by the Public Ministry at year's end.

On May 4, Jose Anancio Mendoza Garcia was found dead in a well in Camotan, Chiquimula. His body showed signs of multiple injuries that indicated that he was murdered. Mendoza Garcia was a former New Nation Alliance (ANN) candidate for mayor in Camotan, as well as a local leader of the Council of Ethnic Communities Runujel Junam (CERJ), a prominent indigenous human rights organization. There was no clear motive for his killing, but Mendoza's CERJ and ANN colleagues concluded that his murder was politically motivated. There was little progress in identifying a motive or a suspect by year's end.

There were some trials resulting in convictions for past cases of politically motivated killings, but many cases remained unresolved, including the 1999 murders of Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda.

On July 27, a court convicted former Santa Cruz mayor Silverio Perez de Leon and former city council member Justo Lopez and sentenced them each to 50 years' imprisonment for their roles as intellectual authors of the May 1998 murder of acting mayor Luis Yat Zapeta. Former treasurer Cayetano Alvarez Velasquez was found innocent. Prosecutors convinced the court that the crime was committed in revenge for Yat's successful effort to remove Perez de Leon from office on charges of corruption. An appeal of the trial court's verdict was pending at year's end. Bernardino Zapeta Vicenta, Tomas Zapeta Ixcoy, and Manuel Pacajoj Mejia, the suspected material authors of the killing, were in jail for an unrelated robbery.

In the case of murdered Retalhuleu Prosecutor Shilvia Jerez Romero de Herrera, on August 7, the 7th court of appeals upheld the death sentence handed down by a trial court in October 1999 against Agosto Negro gang member Tirso Roman Valenzuela Avila. In that decision, the appeals court modified the trial court's verdict with respect to Jorge Ever Lopez Monroy, to whom it also gave the death penalty, and Waldemar Hidalgo Marroquin and Jaime Raul Quezada Corzo, each of whom received 50-year prison sentences for the May 1998 murder. They previously had been set free by the trial court. The CSJ upheld the death sentence for Valenzuela Avila and upheld the 50-year sentences for the other three defendants.

Prosecutors determined that the January 1999 killing of alleged gang member Olman Alexis Viera Rodriguez, and the May 1999 murder of New Guatemalan Democratic Front (FDNG) leader Roberto Gonzalez Arias were not politically motivated.

Prosecutors continued to investigate the 1999 murders of Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda, both of whom had protested labor rights violations and corruption in the Zacapa mayor's office. Prosecutors made no apparent effort to continue to investigate former Zacapa Mayor Carlos Vargas y Vargas, his driver, or his bodyguard, who were believed widely to be the intellectual and material authors of the murders. On February 3, police arrested Carlos Anibal Paz Gordon, a former employee of a company owned by persons close to Mayor Vargas, as the suspected material author of the crime. Paz Gordon's alleged accomplice, Carlos Ramiro Mende Aldana, remained at large at year's end. Paz Gordon's trial originally was scheduled to begin on February 15, but was delayed by a change in the prosecutor and a series of pretrial evidentiary motions and hearings. On October 5, the court convicted Paz Gordon and sentenced him to 20 years' imprisonment. Several other Zacapa Municipal Workers Union members claimed to have received death threats, as did several key potential witnesses. MINUGUA reported in 1999 that the prosecutors in Zacapa seriously mishandled several aspects of the investigation against the material authors.

Six months after the May 1999 abduction and killing of Tomas Tol Salvador, an FDNG leader in Quiche and human rights activist for the CERJ and for the Council of Ethnic Communities, an indigenous organization, the courts finally ordered the January 18 exhumation of an unidentified body. The body was confirmed to belong to Tol Salvador. No suspects were identified and no clear motive had been established by year's end; the case remained under investigation.

In the May 1999 killing of former Judge Herberto Zapata Gudiel, prosecutors requested provisional closure of the case while they gather additional evidence against primary suspect Elmer Ezequiel Hernandez Salazar. In addition prosecutors ruled

out the possibility that Zapata might have been involved in narcotics trafficking. The case still was pending at year's end. Two presumed suspects were identified, but the judge provisionally closed the case against them pending the discovery of further evidence.

The investigation into the July 1999 murder of Mayan priest Raul Coc Choc remained provisionally closed for lack of evidence, although prosecutors continued their investigation. Coc Choc was a leader of the National Association of Mayan Priests; members of the board reported that he had received numerous death threats over the telephone prior to his murder. The Public Ministry has accused Julian Chonay Buc and Josefina Cristal Costop of the crime, but the judge provisionally closed the case for lack of evidence. The Public Ministry has requested a reconstruction of the crime scene in order to reopen the trial.

There were no further developments in the investigation into the August 1999 murder of sociologist Maria Ramirez Sanchez. Because Ramirez was an employee for the same organization as anthropologist Myrna Mack when the latter was killed for political reasons in 1990, media and human rights groups speculated that Ramirez's murder also was politically motivated. However, by the end of the year, prosecutors still had not established a motive or identified the possible killers; the investigation continued.

A heightened sense of public insecurity fueled by a deteriorating violent crime situation and a rash of threats against journalists, human rights workers, and judicial personnel, contributed to some allegations of social cleansing operations. During the first half of the year, a number of corpses were found in and around Guatemala City with signs of torture and violent death, including decapitation. Nearly all of the corpses were young males, many with gang-style tattoos, causing some human rights observers to suspect that the Government was conducting a social cleansing operation against gang members or other criminals. Others argued that the deaths were the product of an inter-gang turf war, possibly related to narcotics trafficking. In its 11th Human Rights Report, MINUGUA noted apparent social cleansing operations in Siquinala, Escuintla, in which armed groups kidnaped, tortured, or killed several individuals.

Prison authorities reported that on May 8, convicts Gumercindo Lopez Salazar and Elvin Arnulfo Sosa Flores escaped from prison and killed a guard in the process. The next day, Lopez's dead body was found in a river with signs of torture and mutilation. A preliminary autopsy by a forensic doctor from the judiciary concluded that the victim had been murdered—a conclusion that was discarded by the Public Ministry in a follow-up autopsy by its own doctor. In addition it was unclear whether Lopez's death might have preceded the time at which he was alleged to have escaped from prison, thereby raising doubts as to whether the escape might have been faked to camouflage an extrajudicial killing. In its 11th Human Rights Report, MINUGUA concluded that the Public Ministry did not thoroughly pursue the investigation in its initial stages.

In 1999 ODHAG and CALDH brought criminal charges against former leaders of the Guerrilla Army of the Poor (EGP) for the alleged killings of five former EGP guerrillas. The charges were initiated after relatives of EGP members who had disappeared in the early 1980's broke off negotiations with former EGP leaders aimed at determining the whereabouts of the remains. CALDH later halted the legal process after negotiations resumed. In August ODHAG reported that the case remained in the investigation phase, with an exhumation planned in Nicaragua to search for the bodies of the EGP members, based on information received from potential witnesses. According to ODHAG and CALDH, at year's end the case was suspended at the request of the victims' families.

The number of attempted lynchings and resultant deaths decreased significantly during the year, and the PNC deterred a number of lynchings. However, popular frustration with the inability of the Government to control crime and of the courts to assure speedy justice, as well as a tradition of extrajudicial repression of crime during years of military rule, led to continued lynchings and mob violence. Since MINUGUA began tracking lynchings in 1996, it has recorded a total of 337 cases. Of these, 75 cases have gone to trial, and 17 sentences have been handed down. Of these sentences, 7 were acquittals and 10 were guilty verdicts. By year's end, only one individual had actually begun to serve a prison sentence. MINUGUA reported 52 lynchings during the year (including 24 lynchings and 28 attempted lynchings), which resulted in 32 deaths and 83 persons injured. These figures are significantly lower than in 1999, when there were 105 lynchings (71 lynchings and 34 attempts), resulting in 48 deaths and 188 persons injured. There were fewer lynchings during the first half of the year; this was attributed by many observers primarily to the elections and the new Administration's early period in office, and in part to increased PNC deployment in rural areas and greater intervention by the PNC and

other authorities. While the police were successful in rescuing some victims of mob attacks, many observers agree that their efforts to deter or prevent lynchings would benefit greatly were the organization to establish more effective ties with indigenous communities (see Section 5). MINUGUA has noted that lynchings increasingly are planned and premeditated events. There continued to be some cases in which municipal officials or other local leaders were involved in lynching attempts. As in past years, mobs generally killed the victims for either property-related crimes or suspected membership in criminal gangs. The large majority of the attacks took place in rural areas in the mostly Mayan communities of the western and central highlands. Generally these were communities where, during the internal conflict, PAC's were accustomed to conducting populist summary hearings in the town square and then publicly executing alleged criminals or guerrillas.

On April 29, approximately 500 residents of Todos Santos Cuchumatán, Huehuetenango, stoned to death a Japanese tourist and burned to death his Guatemalan tour-bus driver. The incident apparently resulted from local fears based on rumors that a satanic group intended to hold a conclave in the area at that time. Authorities reacted quickly, eventually arresting a total of 13 suspects. On August 13, three of the suspects were accused formally of murder and assault; the investigation continued at year's end, with no date set for the trial.

On July 8, a crowd trapped eight men at a roadblock near Xalbaquej, Chichicastenango, Quiché. The victims were pulled from their vehicles, doused with gasoline, and burned to death because they were suspected of running guns and drugs. Authorities quickly identified and issued arrest warrants for 12 suspected ringleaders of the mob. Representatives of 30 surrounding communities threatened unspecified retaliation against the Government should any arrests be made in the case; at year's end, the PNC had not executed the warrants.

While the justice system has been slow to convict and imprison perpetrators of lynchings, the Government has demonstrated an increased willingness and ability to investigate and prosecute lynching offenders. There were numerous arrests and several convictions against lynch mob leaders during the year. On May 25, a court sentenced four men to 41 years and 8 months in prison each for a 1999 lynching of two victims in Chisec, Alta Verapaz. On May 10, three individuals received 30-year prison sentences and on June 2, one vigilante was sentenced to 50 years in prison and two others were given 33-year sentences for an October 1997 lynching in Comitancillo, San Marcos. On December 19, the Sentencing Tribunal of Solola condemned Diego Tzaj Cuc to 50 years in prison on two 25-year counts of murder for the January 1997 lynching in Nahuala of Cristobal Tambriz Ixtama and Diego Crisostomo Coti Gomez. The conviction came after the Solola district prosecutor appealed a June 14 decision which found Tzaj Cuc not guilty. The Ninth Appellate Court agreed with the prosecution and ordered a retrial at which Tzaj Cuc was convicted. Three other suspects in the case were awaiting trial at year's end: Francisco Boluz Lopez, Cruz Sojom Coti, Alonzo Tulul Guarchai and Francisco Traj Tay. At year's end, 10 men and 1 woman were scheduled to stand trial for the June 1997 lynching of 9 persons in Barreneche, Solola.

With the assistance of MINUGUA, the Government inaugurated a new anti-lynching campaign targeting those specific areas where lynchings have occurred. During the year, about 50 workshops had been held in rural towns, and these towns had not seen a recurrence of lynchings at year's end. In conjunction with the program's inauguration, CSJ President Jose Quesada Fernandez strongly denounced lynchings in a public statement and pledged support and protection for judicial personnel who are threatened by the local populace when lynching perpetrators are brought before the courts. In addition the National Tourism Institute (INGUAT) promotes a campaign that includes educational workshops to prevent lynchings. The PNC developed an antilynching operational plan that outlines procedures for officers to follow when confronted with lynchings. There were some criticisms that the PNC has yet to meaningfully deploy its operational plan or take advantage of officers who speak indigenous languages to build relationships with the communities that they police. Some observers also have criticized national antilynching campaigns as lacking sufficient focus or coordination with rural communities.

Despite improvements in the Government's response to deter lynchings and punish those responsible, growing public feelings of insecurity in the face of an ongoing wave of violent crime led many communities to form Local Security Councils—as provided for in the Law on the National Civilian Police—to protect themselves from criminal activity. These organizations were created primarily in Quiché department, with others believed to exist in Baja Verapaz, Solola, Huehuetenango, and San Marcos departments. At a November press conference, PNC director Rubio Lecsan Merida announced that the Councils would be implemented in 31 municipalities as a measure to extend the effectiveness of the police. In addition there were

unconfirmed reports that armed groups not covered by the Council statute have organized in numerous other communities. There also were unconfirmed reports that these unregulated, uncontrolled groups were responsible for killings, torture, and social cleansing operations. There continued to be concerns that former PAC members sometimes are involved in lynchings.

*b. Disappearance.*—There was one credible report of forced disappearance attributed to police forces.

On May 7, plainclothes PNC and SIC agents detained Adolfo Carrillo Leiva, Rigoberto Pineda Agustin, and Mynor Pineda Agustin in San Benito, Peten. During interrogation for suspected participation in a kidnaping, the suspects were blindfolded and driven to a remote location, then threatened, beaten, and tortured. They returned to San Benito without Mynor Pineda, and his whereabouts were unknown as of June 30, suggesting a forced disappearance. A MINUGUA investigation indicated that PNC and SIC members tried to frame the three suspects for the kidnaping by falsifying evidence and documents. In addition the police apparently drove the suspects to the scene of the crime in order to claim that they caught the suspects in the act. The Public Ministry made no serious attempt to investigate or solve the crime. A writ of habeas corpus submitted on May 10 was answered by the judge in the San Benito Criminal Court, but did not produce Mynor Pineda or any information regarding his whereabouts.

There was no progress in the February 1998 disappearance of Francisco Gonzalez Vasquez, which was attributed to two Zacapa police officers. Despite an August 1998 arrest warrant for the arrest of Inspector Marvin Rolando Gomez Noguera on charges of “abuse of authority and threats,” he never has been arrested. The PNC transferred him to a position in Tecun Uman, San Marcos (on the other side of the country).

The PDH’s office reported 10 complaints of forced disappearance during the year, compared with 12 in 1999, and 18 in 1998. MINUGUA reported two complaints of forced disappearance during the year, compared with one in 1999 and one in 1998.

There was one credible report of a politically motivated disappearance. On April 7, University of San Carlos (USAC) Professor Mayra Gutierrez Hernandez disappeared. The human rights community and Gutierrez’s family and friends concluded that her disappearance was politically motivated, due to her social activism and political activities, which included social research into international adoptions, women’s rights, and a range of human rights causes. They also accused prosecutors of sabotaging the investigation by pursuing inaccurate theories that Gutierrez was an active member of a guerrilla organization and either left voluntarily or was kidnaped by her guerrilla comrades. These theories were repeated publicly by high-level Government officials, including then-Interior Minister Guillermo Ruiz Wong, thereby adding fuel to suspicions of a rightwing conspiracy. During its own investigation, MINUGUA found evidence that persons associated with military intelligence were spreading rumors and other misinformation to divert the official investigation, while persons close to Gutierrez inexplicably altered or removed valuable evidence and gave false information to Public Ministry prosecutors. Nevertheless, there were strong indications that the Public Ministry’s investigation was neither thorough nor objective. On November 28, the NGO Grupo de Apoyo Mutuo requested a special mandate from the CSJ to conduct an investigation into the case due to the lack of information that has been made available to date by the authorities. On December 7, the Supreme Court granted the PDH the status of special investigator in the case until February 2001.

Disappearances in high-profile cases from recent years remained unresolved at year’s end. For example, there was no progress in the investigation into the April 1999 disappearance of prominent indigenous leader and FDNG party member Carlos Coc Rax. Nor was there progress in the disappearance cases of Arnoldo Xi, an indigenous- and peasant-rights activist who reportedly was shot and abducted in March 1995; Lorenzo Quij Pu, a human rights activist who disappeared in January 1994; and Juan Jose Cabrera (“Mincho”), the guerrilla commander reportedly captured by the EMP in 1996 while taking part in a kidnaping.

On August 10, ODHAG released its report on children missing since the armed conflict. The report stated that of the documented cases, 86 percent were of “forced disappearances” and the remaining 14 percent were attributable to diverse causes associated with the conflict, such as communities fleeing attack. Of the documented cases of forced disappearances, the military was responsible for 92 percent of the cases; PAC’s were responsible for 3 percent; guerrilla forces were responsible for 2 percent; and the remaining 3 percent could not be attributed to anyone. In 68 percent of the forced disappearances, boys and girls were taken directly to a military post of one kind or another. Approximately 93 percent of the victims were Mayan children, the majority of whom were between 1 and 4 years old.

The fate of guerrilla leader Efraim Bamaca Velasquez, who disappeared following a March 1992 clash between army and URNG forces, remains unknown. On December 5, the Inter-American Court ruled that the Government was guilty of violating Bamaca's personal liberty and integrity, and his rights to life, to juridical personality, and to legal protection. It further found that in the case, the Government violated international human rights conventions, specifically the Convention against Torture. The Court ordered the Government to investigate, publicly identify and try those responsible, and award damages for its violations.

There was no apparent progress in the 1998 criminal case filed by Adriana Portillo Bartow for the 1981 abduction and disappearance of her two children and four other members of her family. The lawsuit named former Interior Minister Donald Alvarez Ruiz, former National Police Director German Chupina Barahona, and Pedro Garcia Arredondo, the former chief of Commando Seis (a plainclothes police urban counterinsurgency force) as defendants. Garcia Arredondo was reelected as mayor of Nueva Santa Rosa in the November 1999 elections and therefore has immunity from prosecution.

*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, although at decreased levels from the previous year. These complaints typically involved the use of excessive force during arrests, interrogations, or other police operations. SIC detectives continued to torture and beat detainees during interrogation to obtain forced confessions. The Government and the PNC showed increased willingness and ability to investigate, prosecute, or otherwise punish officers who committed abuses. The PNC transferred cases of alleged torture to the Public Ministry. There was a significant increase in the number of murder victims that demonstrated signs of torture or cruel treatment, in such diverse locations as the Peten, the border with Honduras, Escuintla, and Guatemala City, which led some observers to suspect social cleansing operations (see Section 1.a.).

The PDH's office reported no complaints of torture during the year, compared with four in 1999 and two in 1998. In its 11th Report on Human Rights, MINUGUA investigated 13 complaints of torture, of which 12 were confirmed. The majority of these cases involved abuse or mistreatment of suspects and detainees by PNC officers or SIC detectives. The PNC sometimes punished the use of excessive or illegal force by officers, but more often offenders merely were transferred to a different location. In several cases, there was credible evidence that PNC officers and their superiors altered documentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct. Some PNC officers accused of crimes evaded punishment by fleeing justice. On November 25, the PNC director said that the organization has "zero tolerance for illegal acts or for human rights abuses on the part of police officers." Through the end of October, 215 PNC officers had been dismissed from duty, while another 537 officers were under investigation in the courts.

On February 3, PNC officers in Nueva Santa Rosa, Santa Rosa, arrested Juan Carlos Zepeda Herrera for public drunkenness. Several neighbors witnessed the arrest, but when Zepeda's father went to the police station to inquire about his son, a senior officer denied knowledge of the arrest. The next day, Zepeda was found in the bottom of a 15-meter deep ravine with several broken bones and other serious injuries. The ORP and Public Ministry concluded that the arresting officers were responsible, but little progress had been made on the case against them by the end of the year.

On February 9, Augusto Marroquin Carreto was taken from his cell in the Quetzaltenango detention center by SIC detectives and interrogated about his alleged involvement in the death of another prisoner. The detectives beat and tortured him until he confessed. Several high ranking PNC and SIC officers attended the interrogation. On February 5, SIC officers from Quetzaltenango tortured Pablo Albani Edelman Bethancourt and Alex Guillermo Reyes Monterroso into confessing their membership in a gang of car thieves by asphyxiating them with rubber hoods and beating them.

On February 13, in Jocotenango, Sacatepequez, Carlos Samayoa Olayo was arrested inside his home and beaten severely by PNC officers who did not have an arrest warrant. He was taken to jail despite signs that his health was deteriorating quickly. Eventually, he was taken to a hospital, where part of his intestine was removed surgically due to injuries he sustained from blows to the stomach. PNC officers falsified his arrest documentation to justify their use of force and hide the fact that they had arrested him illegally. A judge freed Samayoa and the PNC initiated

disciplinary proceedings against the responsible officers, but the Public Ministry's investigation failed to produce criminal charges by year's end.

Casa Alianza reported that although the number of incidents of abuse of street children roughly was equal to 1999 levels, relatively few incidents were committed by members of the security forces. Most acts of violence against street children were committed by individuals, by private security guards, or in gang- and drug-related violence among street children. Casa Alianza reported only one case of abuse of street children by PNC officers, in which several officers were alleged to have threatened and intimidated five street children. Prosecutions and convictions for crimes against street children continued to be very rare.

There were no reports that police used excessive force in evictions of landless peasants occupying farms in attempts to gain land during the year. Because of violent confrontations in the past, the Government continued its policy of securing an eviction order from a court, informing the occupiers of the coming eviction, and sending in a lightly armed police contingent to end the occupation by using dialog and verbal persuasion. The Ministry of Government carried out numerous evictions without incident during the year using this policy. Despite these improved tactics, on March 7, police and squatters clashed during an eviction near Villa Nueva, when police used tear gas to subdue rock-throwing squatters. In a similar operation, police also clashed with squatters in the Peten on December 11. Some 21 persons were injured as violence broke out during the eviction of about 300 squatter families. Police used tear gas to disperse the crowd. The public continued to experience difficulty in demonstrating or securing legal title to land, and some progress was made toward genuine land reform. On April 27, the parastatal Fontierras signed a \$31 million loan agreement with the World Bank to provide property titles to landowners in the Peten department. Cooperation between the parastatals Fontierras and Contierra brought together the related functions of land purchases with that of resolving land conflicts, which are at the root of a great deal of rural violence and lynchings (see Section 1.a.). The alliance resolved 89 such conflicts during the year. The issuing of land titles by Fontierras has affected approximately 5,400 families; the estimated demand for these services is estimated at 55,000 families.

Corruption continued to be a problem, and there were credible allegations of involvement by individual police officers in criminal activity; contrary to the previous year, there were no credible allegations of police involvement in kidnappings. The authorities arrested some police officers and continued to take action against officers found to have engaged in illegal activities, referring some violations to the criminal justice system rather than simply imposing administrative punishments. However, some observers claimed that rather than discipline its officers the PNC often just transferred them to a different part of the country. Transfers are a common practice and are used to avoid personal problems, corruption, and questions of mistreatment of detainees. Impunity for police who commit abuses remained a serious problem.

All PNC members were required to meet minimum education requirements and pass an entrance examination. Former PN staff who wished to integrate into the PNC must complete successfully a 3-month retraining course. According to MINUGUA, there are 1,200 former PN employees who have yet to receive training. There also were screening procedures to detect suspected human rights violators and officers involved in criminal activities. New recruits had to complete a 6-month training course before entering on duty. The training course, developed with the assistance of MINUGUA, foreign countries, and international organizations, includes extensive human rights components. However, some observers claimed that the retraining course was not sufficiently rigorous and that relatively few members of the PN were screened out during retraining, allowing the incorporation of some poorly qualified PN members into the ranks of the new PNC.

Pursuant to the Peace Accords, former members of the military were eligible to apply for positions in the PNC but were required to apply like other civilians and complete the 6-month training course required of all civilian applicants. However, the Government incorporated some former members of the military and the former PMA into the ranks of the PNC upon the completion of only the shorter course intended for current members of the PN. A total number of 10,144 officers from prior security forces have taken the retraining course since its inception. The former PMA members were not subjected to a competitive selection process but were screened carefully before they were allowed to enter the program. Although government plans called for 20,000 PNC members to be on duty around the country by the end of 1999, resource constraints limited that number to about 16,700 by year's end. According to a June MINUGUA report, PNC officers covered 307 of 331 municipalities. Approximately 39 percent were new recruits, and 61 percent were inducted from existing organizations. Approximately 10 percent of the force is female. In August a class of 999 new recruits graduated from the Police Academy.

The PNC's Office of Professional Responsibility (ORP) handles internal investigations of misconduct by police officers. Despite greater numbers of police officers on duty throughout the country, and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. There were signs that the ORP increased its independence, professionalism, and effectiveness, despite limited experience and resources. However, there were isolated cases in which ORP investigators appeared to participate in coverups of police misconduct. The ORP received a total of 1,581 complaints during the year, compared to 1,517 complaints for 1999. There were 222 complaints of abuse of authority, 104 of robbery, 43 of homicide, 141 of corruption, 108 of improper conduct, 107 of threats, and 72 of illegal detention. In cases where sufficient evidence suggested that criminal acts were committed, ORP investigators forwarded them to the Public Ministry for further investigation and prosecution. Between January and the end of October, the PNC fired 215 officers. By year's end, charges were brought against a total of 594 officers. At the end of the year, the ORP had closed 870 cases, compared to 153 cases in 1999. The investigations found 345 officers culpable and exonerated 525 officers. Most observers still considered the PNC to be a significant improvement over the PN.

In 1998 the PNC accepted some 60 police candidates from indigenous communities in the Ixil region—approximately 30 of whom graduated on their first attempt—to ensure that PNC personnel in those communities would be proficient in the local language and able to operate effectively in those communities. According to MINUGUA, approximately 7 percent of PNC officers speak an indigenous language. However, it appears that a very high percentage of officers that do speak indigenous languages work outside of the geographic area of their particular linguistic competency.

No active members of the military serve in the police command structure, but on March 21, Congress enacted a law enabling the Government to employ the army to continue to support the police temporarily in response to an ongoing nationwide wave of violent crime. In 1998 and 1999, President Arzu had ordered the army to support the police temporarily. While these measures were popular politically, given the public's preoccupation with crime and security, they left open the possibility of renewed military involvement in internal security functions, a role prohibited by the Peace Accords. Under the new law, military personnel are not subordinated clearly to police control during joint patrols or operations.

There has been only modest progress in the case of Sister Dianna Ortiz, who was kidnaped, tortured, and sexually abused by a group of armed men in November 1989. The prosecutor on the case, Braulio Guzman, renewed his efforts to finalize the investigative phase of the trial despite logistical constraints. The court is empowered to close the case for lack of evidence should nothing further be submitted.

Prison conditions remained harsh but generally not life threatening. There was at least one death in the prison system that caused observers to suspect social cleansing by government agents (see Section 1.a.). The prison system continued to suffer from a serious lack of resources, particularly in the areas of prison security and medical facilities. In November the Government reported that prison capacity nationwide was 6,170 persons and that there were approximately 6,700 inmates. The majority of the prisoners are not serving prison terms but are being held in pretrial detention. Pretrial detainees often are separated from convicted criminals. Many are released either on good behavior or because they never are sentenced. Some institutions were overcrowded; for example, in August the Preventive Detention Center for Men in Guatemala City was approximately 75 percent over its designed capacity. In February a project to improve prison infrastructure began, involving improvements to fences and walls to prevent further escapes and installation of better water, electricity, sanitation, and emergency systems. In the spring, a new maximum security facility opened. Prisoners continued to complain of inadequate food. Corruption—especially drug-related—was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. According to press reports, in December approximately 1,100 prisoners temporarily took control of the interior of the main detention facility in Guatemala City, calling for better living conditions and access to visitors. The frequency of jailbreaks continued to be a matter of serious public concern, although the number of successful escapes appears to have declined. Several escaped convicts eventually were recaptured. The military continued to provide perimeter security for various prisons, as it has done since 1998.

The 433 female prisoners in the penal system generally are held in facilities separate from men. Immigration detention facilities do not always keep female detainees separate from the male population. In August one woman claimed that she had been

raped while in detention; however, she declined to cooperate with authorities willing to investigate. The Government permitted access to prisons by family members.

Minor children are held in separate detention facilities. According to a December MINUGUA report, there are only five juvenile delinquent facilities in the country; approximately 39 percent of the children housed in these facilities have sought protection and have committed no offense.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, there were frequent credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers frequently fail to satisfy legal requisites. 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 over 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. The law also provides for access to lawyers and bail.

There are no comprehensive, reliable data on the number of arbitrary detentions, although most accounts agree that the security forces routinely ignored writs of habeas corpus in cases of illegal detention. The PDH reported 46 complaints of illegal detention during the year, compared with 20 in 1999 and 18 in 1998. From October 1999 through June, MINUGUA investigated some 31 cases of illegal or arbitrary detention, and confirmed 23. According to a December MINUGUA report, approximately 95 percent of arrested children were arrested by authorities without a warrant.

Government figures indicated that approximately 61 percent of those incarcerated are awaiting trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions still occurred routinely. Prisoners often were detained past their legal trial or release dates. Prisoners sometimes were not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems.

The Constitution prohibits exile, and it is not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system often fails to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The courts' response to human rights violations, as well as to general criminal activity, has been inadequate, although during the year the Government achieved convictions in a few important human rights cases from previous years. However, many high-profile human rights cases remained pending in the courts for long periods as defense attorneys abused the system by employing numerous dilatory appeals and motions, for which they rarely were sanctioned. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. There also were credible allegations of parallel investigations by military intelligence in the Bishop Gerardi and Ordonez Porta murder cases—that interfered with the justice system's efforts to investigate or prosecute those responsible (see Section 1.a.).

Judges and prosecutors continued to receive threats aimed at influencing current decisions or as reprisals for past decisions. Death threats and intimidation of the judiciary were extremely common in most cases involving human rights violations, particularly where the defendants were current or former members of the military, military commissioners, or PAC's; witnesses often are too intimidated to testify. For example, the lead prosecutor and his staff in the Bishop Gerardi murder investigation continued to report wiretapping, surveillance, and frequent death threats. In addition at least two judges and a judicial staff member in the Gerardi case reported threats and intimidation, including surveillance (see Section 1.a.). With relatively few exceptions, plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation, and surveillance. A March report at the U.N. Human Rights Commission noted that many judges and prosecutors are denied health insurance because the threats and intimidation that they receive makes their jobs too dangerous. The Government allocated more resources to the judiciary's physical security, including providing protective details for the judge and at least some members of the prosecution team in the Gerardi case and witnesses in the SITRABI and Dos Erres cases (see Sections 1.a. and 6.a.). The Government also devoted more resources to providing for witness protection abroad for key witnesses in the Gerardi and Dos Erres cases (see Section 1.a.). According to a November press article, the Public Ministry spent approxi-

mately \$800,000 (6 million quetzals) on its witness protection program, and was reviewing the criteria according to which witnesses are admitted into the program.

The judiciary is composed of the Supreme Court of Justice (CSJ), appellate courts, trial courts, and courts of first instance (which function like grand juries). There also are courts of special jurisdiction such as labor courts and family courts; these also are under the jurisdiction of the CSJ. The Constitutional Court is independent of the rest of the judiciary. The Constitution requires that Congress elect all CSJ 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. In October 1999, new CSJ and appellate magistrates were chosen in a selection process that was more participatory and transparent than ever before, despite some accusations that political parties were attempting to fill the courts with their sympathizers prior to the November 1999 general elections. There are several community courts in indigenous rural areas (see Section 5). During the year, 18 judges whose 5-year contracts were not renewed collectively filed a petition before the Constitutional Court, which still was pending at year's end.

The 1994 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. Verdicts are rendered by three-judge panels. The Criminal Procedures Code introduced oral trials; however, only those attorneys who have graduated since that time have had real training in oral trials. The code also provides for language interpretation for those who require it; however, in practice this provision rarely is honored due to budgetary and other constraints (see Section 5). During the year, some new interpreters were hired, and the Public Defender's Office began hiring attorneys who speak indigenous languages and assigning them to areas where they can use their language skills to defend non-Spanish-speaking defendants. The 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 lead 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 continued to use such motions as delaying tactics, frequently holding up trials for several months or even years.

Inefficiency and corruption in the courts, Public Ministry, and police continued to impede the proper functioning of the judicial system and undermine the right to due process. The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. According to government statistics, through August 1999 (the last period for which figures were available), the Supreme Court imposed 1,215 sanctions against members of the judiciary for offenses ranging from simple impropriety to illegal conduct. Of those sanctions against judges, 1,159 were findings of impropriety, 66 were warnings, 9 judges were fired, and 1 was suspended. Magistrates received 13 findings of impropriety. The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of investigators. Prosecutors remained susceptible to intimidation and corruption. In addition the Government's failure to clearly delineate responsibility for investigating crimes to either the PNC or the Public Ministry led to continued infighting and competition between these organizations, as well as the duplication of investigative resources. It was difficult to attract qualified personnel to the courts because of the low salaries offered, but a raise in the salaries of judges attracted greater numbers of higher caliber candidates.

On December 2, 1999, the new law on legal careers took effect, fulfilling a major objective of the Peace Accords. That law establishes a system to regulate the income, terms of office, promotion, training, disciplinary measures, and other activities of judges and magistrates, as well as support their professionalism and independence. The new law was designed to speed up trials and reduce corruption by recognizing and protecting competent judges while creating mechanisms to remove incompetent or corrupt ones. A Judicial Career Advisory Committee and a Disciplinary Committee were established, as called for by the new law, and a permanent training staff was hired for what is now called the Institutional Training Unit of the Judicial Career Council. It provides a mandatory 6-month training course for all newly appointed judges. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions. The 1999 law also provided for a Peer Review Council, which has been in operation since mid-year. The panel reviews accusations brought by the public, litigants, or other sources, investigates the complaints, and takes administrative action where appro-

prate. The panel had reviewed dozens of cases by year's end, resulting in sanctions ranging from letters of reprimand to firing.

In cooperation with foreign donors, the Government continued its efforts to reform the judicial system, and there were some significant improvements throughout the year. For example, on July 18, a new Public Ministry Case Intake Unit was inaugurated in Guatemala City, which reduced the average waiting time for filing a complaint from several hours to approximately 10 minutes. A new Public Ministry Victim's Unit was inaugurated with doctors and nurses on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases.

One of the most successful reform efforts has been the creation of "justice centers," which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, military officers, and civil society in a team approach to dispute resolution and problem solving. The centers have installed modernized docket and case filing systems in the courts, thereby increasing efficiency and public service while significantly decreasing corruption in the disappearance of case files. Centers are located in Zacapa, Quetzaltenango, Escuintla, Nebaj (Quiche), the Peten, Santa Eulalia (Huehuetenango), and Santa Cruz del Quiche (which opened in April). Additional centers in Huehuetenango, Coban, Chiquimula, Puerto Barrios, San Marcos, and Solola are scheduled to open by mid-2001. The Supreme Court extended the administrative model of the justice centers to include the criminal courts in the capital by creating a new Clerk of Court office, which has streamlined the processing of cases, increased transparency, and improved customer service. Under the old system, courthouses resembled marketplaces in which individuals could bribe a court official to "lose" their case file—a system that resulted in near-complete impunity for those with sufficient money. Individuals also could bribe the court to lose the file of a person in pretrial detention, thus assuring that that person would remain in jail indefinitely. With the implementation of the centralized, computerized case tracking system, the number of missing cases has dropped from approximately 1,000 per year to 3 cases since the new system was introduced. In all three of the misplaced cases, the individuals named in the complaints have been identified and are under investigation. Prospective judges and assistant judges attended special courses at the School of Judicial Studies, from which applicants were selected to fill vacancies in the judiciary. Since 1994 the Government has expanded the judiciary's presence throughout the country; at year's end, there were judges in more than 300 of the 331 municipalities around the country.

Despite some progress, much remains to be done to reform the judiciary and establish effective rule of law, as mandated by the Peace Accords. Many of the structural and procedural weaknesses of the judiciary would have been addressed by the proposed constitutional reforms that were defeated in a national referendum in May 1999. The National Commission for the Strengthening of Justice, which was created following the Peace Accords, increasingly is active; in July it announced its strategic plan, and subsequently created a number of subcommittees to work on implementation. The Commission met weekly during the year to consider reforms to the penal code in order to assist justices of the peace in resolving local disputes.

Beginning in August, residents of small towns in Quiche began holding customary law trials, allegedly based on Mayan indigenous law, in which community leaders meted out corporal punishment rather than lynch suspected wrongdoers (see Section 1.a.). For example, on August 17, leaders of several small communities near Zacualpa, Quiche, rounded up a crowd of 350 residents and summoned representatives from the PNC, Public Ministry, and the Human Rights Ombudsman's office to serve as witnesses. They then held a customary law trial and sentenced 2 brothers suspected of thievery to 25 lashes with a whip, shaved their heads, and made them promise never again to do anything to harm the community. The two men reportedly accepted responsibility for their crimes and their father was designated to administer the whippings. (One of the worst mass lynchings in 1999, in which five suspected gang members were killed by a mob that also took several PNC officers captive to prevent them from interfering in the lynching, also occurred in Zacualpa.) Government and law enforcement officials quickly criticized the common law trials as illegal and emphasized the need for all suspected criminals to be processed through the judicial system.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home, correspondence, and private documents; however, allegations persist that the authorities sometimes disregard these provisions. Elements of the security forces, specifically the EMP, reportedly continued to monitor private communications. The prosecutor and his staff in the Bishop Gerardi murder investigation continued to report wiretapping and surveillance, and

other human rights organizations reported telephone anomalies that suggested wire-tapping (see Section 1.a.).

On May 7, Edgar Gutierrez, head of the President's Secretariat for Strategic Analysis, announced the existence of a computer database containing names, personal information, and cryptic codes about more than 650,000 persons. The database appeared to have been compiled by military intelligence several years earlier and a copy remained on the SAE computer system. The SAE provided a copy to the Human Rights Ombudsman, who offered access to the database as a public service for those who wished to learn if their names appeared on the list.

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment, as the armed forces found it relatively easy to recruit young male volunteers from impoverished areas using pay and education incentives.

*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. There were numerous credible reports that members of the press were targets of anonymous threats and intimidation; and there were two credible allegations of government-connected censorship. There were no reports of self-censorship.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors. The press also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks.

The Government prepared public information programs, which the radio and television stations were required to broadcast. The Government owns the rights to seven national television channels but used none of them for broadcasts.

All four of the country's national television stations are owned by a Mexican citizen, Angel Gonzalez, who plays a significant role in politics and provides free broadcast time to Guatemalan Republican Front politicians whom he supports. These channels are criticized strongly as being monopolistic, progovernment, and interested in broadcasting only uncontroversial news. In exchange for giving extensive free time to the Guatemalan Republican Front and denying access to then-ruling National Advancement Party, Gonzalez reportedly insisted that his brother-in-law, Luis Rabbe, be the FRG's candidate for mayor of Guatemala City. Despite the FRG's electoral sweep of most major offices, Rabbe was defeated. Portillo then named Rabbe as his Minister of Communications. By year's end, both Rabbe and the Communications Ministry were the subject of numerous corruption charges.

In February journalist Jose Eduardo Zarco, host of the popular television political news show "Evening Issues," claimed that his show had been forced off the air due to political pressure from the newly inaugurated Portillo Government. Specifically Zarco alleged that Communications Minister Rabbe pressured Angel Gonzalez to close the show because it was too critical of the Government. Gonzalez owns the television station that broadcast Zarco's show as well as several other stations, despite a law forbidding non-Guatemalans to own radio or television stations and laws to prevent monopoly control. Human Rights Ombudsman Julio Arango investigated and concluded that the Government wrongfully had forced the show off the air. Arango called for legislation to eliminate the media monopoly held by Gonzalez. The Government denied responsibility for the show's closure and invited Organization for American States (OAS) Special Rapporteur on the Freedom of Expression Santiago Canton to conduct an investigation into the incident.

On April 12, Canton arrived for a 3-day visit, after which he recommended a "serious investigation of the possible existence of a real monopoly on television stations open to public access," in reference to the control by a single individual of all of the private stations in the country. He also recommended that the Government implement clear regulations to prevent conflicts of interest between government officials and the media; suspend the auctions on radio frequencies until the Peace Accord regarding the rights of indigenous people is implemented; change the regulations governing television and radio advertising to ensure equal access; include the recommendations of civil society in legislation on information access that President Portillo promised to propose; and launch a campaign to promote and provide training in freedom of expression, including the passage of a law to protect the freedom of information. Based in part on Canton's recommendations, as well as a similar recommendation from the Historical Clarification Commission, on August 16, the Government introduced legislation in Congress to create a Freedom of Information Law. The bill would establish an ombudsman's office to defend the right to freedom of information, including the ability to petition the Government for personal records

and other information. The bill languished in the FRG-dominated Congress at year's end.

In September popular radio talk show host Marielos Monzon was fired from Radio Sonora, allegedly for returning 3 days late from a trip. Monzon credibly alleged that she was fired because she earlier had rejected a demand from station management not to interview certain "leftwing" members of the Portillo Administration, nor opposition politicians.

Despite its Peace Accords pledge to enact reforms to the Radio Communications Law to make radio frequencies available for indigenous communities, the Government instead passed a law that created a public auction system for radio frequencies. In August when eight local radio operators were unable to purchase the frequencies that they already were using due to the extremely high cost, the Superintendent of Telecommunications fined them \$10,000 (about 78,000 quetzals) for broadcasting without a license. MINUGUA concluded that the high cost of the public auction system was an effective barrier to rural indigenous access to radio frequencies.

On April 27, photojournalist Roberto Martinez of the newspaper *Prensa Libre* was killed while covering street demonstrations provoked by bus fare increases. Martinez allegedly was shot by private security guards, who opened fire on a group of demonstrators who were accompanied by a number of professional journalists carrying their photographic equipment. Two guards were remanded for trial, and remained in police custody at year's end (see Section 2.b.).

In May and thereafter, there were significant increases in the number of threats and other acts of intimidation directed against journalists, which coincided with an increase in threats against judicial personnel and human rights workers. Various reporters, columnists, and editors from several daily newspapers complained of telephone threats and other acts of intimidation. Personnel from one newspaper, *El Periodico*, began receiving numerous threats the day before publishing a series of articles on an alleged clandestine intelligence network within the military. Some reporters claimed that they were followed by vehicles with tinted windows and no license plates. Others alleged that they were the victims of telephone surveillance. The sudden and significant increase in the number of threats in April and May led many observers to believe that there was an organized campaign to intimidate the press by conservative elements affiliated with the military.

On September 30, 1999, the Chiquimula sentencing court found Jose Gabriel Lopez Leon and Neftaly Lopez Leon guilty of the 1997 murder of journalist Jorge Luis Marroquin Martinez; the court sentenced each of them to 30 years in prison. The same court found that the prosecutors in the case had presented inadmissible evidence against the suspected intellectual author of the crime, former Jocoton Mayor Manuel Ohajaca. The Public Ministry did not bring any new evidence against Ohajaca.

The Constitution provides for academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government respects this right in practice. Peaceful demonstrations were common. The police acted with restraint, and the authorities sometimes negotiated the peaceful departure of the demonstrators. On April 24, a demonstration against an increase in public transportation rates turned violent, as rioters looted, burned buses, and destroyed property in downtown Guatemala City. On April 25, the police responded with tear gas and riot control measures, and arrested over 50 alleged participants. However, the violence continued on April 27. Many citizens criticized the police for not responding earlier and with more force to stop the violence. During the riot, private security guards killed three persons, including a journalist, and wounded several others (see Section 2.a.). On October 10, mass protests over land reform occurred, generally without incident. However, 1 demonstrator was killed by an unidentified assailant, and 10 protesters were injured in a clash with police in downtown Guatemala City.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government did not interfere with political associations. However, organizations must obtain legal status, a formerly cumbersome and expensive procedure that was streamlined considerably in 1998. The URNG and several NGO's had alleged that this law particularly disadvantaged organizations representing marginalized social sectors, including indigenous groups.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respects this right in practice. There is no state religion; however, the Constitution recognizes explicitly the separate legal personality of the Catholic Church. Members of a religion need not register simply in order to worship together. However, the Government requires religious congregations (other than the

Catholic Church), as well as other nonreligious associations and NGO's, to register as legal entities in order to be able to transact business.

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

The Director General of Immigration acknowledged publicly that extortion and mistreatment of persons attempting to cross illegally into the country are subject to extortion and mistreatment by government officials. Many observers believe that this mistreatment is underreported because illegal immigrants almost never have the capacity to lodge formal complaints, either with the authorities or against them; and there is little legal assistance available to such immigrants.

The Government grants refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

Voluntary repatriation of Guatemalan refugees who had migrated to Mexico during the internal conflict concluded in 1999, bringing the total to over 40,000 since 1993. Guatemalans who still remain in Mexico do so by choice. Forty former refugee families returned voluntarily to Mexico in August, claiming that the Government was not providing for their fundamental needs. The Government of Mexico reportedly accepted their return. Over 1,500 other individuals indicated their intention to return to Mexico if the Government would not resolve their land issues and improve living conditions.

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

Citizens have the right to change their government by peaceful and democratic means, through secret ballot and universal suffrage for those 18 years of age and older. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been nine free elections. International observers concluded that both the November 1999 general elections and the December 1999 runoff presidential election were free and fair. During and after the November round of elections, political parties lodged numerous complaints of fraud and misconduct against each other, the vast majority of which were unaccompanied by evidence and appeared to be partisan attempts to disqualify opponents or annul election results. Due largely to unexpectedly high voter turnout, the Supreme Electoral Tribunal (TSE) was slow to report the November vote count. Public uncertainty over the delayed count contributed to violence and disturbances in a number of municipalities with highly contested local races. Lack of transportation, onerous voter registration requirements, and elections scheduled during the harvest season prevent many poor, indigenous, and rural persons from voting.

Voters elect the 113-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. The Congress had 91 deputies from districts and 22 from the national list. The 1999 elections involved 13 political parties, including two 2-party coalitions. Four parties and both coalitions won seats in the legislature, led by the FRG with a 63-seat majority, followed by the PAN with 21 seats, the Bancada Unionista with 16 seats, and the New Nation Alliance coalition, which includes the Guatemalan National Revolutionary Unity (URNG) party, with 9 seats. Other small parties hold a total of 4 seats. Voter participation in the 1999 elections was at a 13-year high. Congress can and does act independently of the executive, but fragmentation along party lines and a weak support and staff structure result in a legislature that is relatively ineffective. Nevertheless, Congress increased its relative power and independence under the leadership of president of Congress Efraín Ríos Montt, a former de facto President and current leader of the ruling party, the FRG.

The former Guatemalan National Revolutionary Unity guerrillas met all legal requirements for qualification as a political party and competed in the 1999 general elections, winning nine seats in Congress as part of a coalition with a much smaller party.

On December 26, 1999, voters elected FRG presidential candidate Alfonso Portillo in a runoff election that international observers characterized as free and fair. He took office on January 14.

The new Government's efforts to implement the Peace Accords were limited as it struggled to organize itself and set policy priorities throughout the year. By year's

end, the Portillo Administration established a new timetable for the implementation of the many elements of the Accords which had yet to be accomplished.

In May 1999, in a national referendum, voters rejected the entire package of 50 constitutional reforms approved by Congress in 1998, dealing a significant blow to the peace process. Only 20 percent of the electorate voted. The defeated amendments included provisions to recognize, respect, and protect indigenous languages and traditional customs, professionalize the judicial service, give civilian courts jurisdiction over military personnel, and define the army as an apolitical organization. While ordinary laws could be enacted to accomplish many of the reforms, the constitutional reforms nonetheless held great symbolic value for the peace process.

There are no legal impediments to women's participation in politics and government, but women are underrepresented in politics. The major parties nominated and elected fewer female candidates for Congress in the 1999 elections; however, women's participation as voters was the highest ever, despite social traditions that inhibit voting by women. Nevertheless, women held some prominent political positions. Voters elected 8 women to Congress in November, and that number was increased to 13 as substitutes took the seats of members of Congress recruited to serve in the Executive Branch. One woman, Zury Rios de Lopez, is the Second Vice President of Congress. Women hold two seats on the Supreme Court and one on the Constitutional Court. There was one female minister in the Portillo Cabinet—the Minister for Culture and Sports.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, including 14 members of the new Congress (15 were elected, but Aura Marina Otzoy Colaj, an indigenous woman, later was appointed Ambassador to Norway). There were 6 indigenous members in the 80-member Congress before the 1999 elections. Indigenous people still are underrepresented significantly in politics due to limited educational opportunity and pervasive discrimination (see Section 5). There are two indigenous members in the Cabinet of the Portillo Government.

#### *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. Numerous domestic and international groups investigate and report freely on human rights issues. Senior government officials also met with numerous foreign government officials and international human rights monitors. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

During the year, most NGO's credibly reported receiving threats or being intimidated by unidentified persons. From April to June there was a very significant increase in the number of threats against human rights workers, as well as journalists and judicial personnel, in comparison to 1999 levels (see Sections 1.e. and 2.a.). Most of these acts of intimidation involved anonymous telephonic threats, surveillance, and unknown individuals and cars following human rights workers or watching their workplaces or residences. In addition at least two murders and one disappearance allegedly were committed for political reasons, possibly related to the victims' human rights work. These cases included the killing of two government environmental workers in Izabal (see Section 1.a.), and the disappearance of Professor Mayra Gutierrez (see Section 1.b.). ODHAG personnel reported frequent and persistent death threats, surveillance, and other acts of intimidation, as did the prosecutors, two judges, and other judicial personnel working on the Bishop Gerardi murder case (see Section 1.a.). 1992 Nobel Peace Prize laureate Rigoberta Menchu and her staff reported numerous threats in connection with the genocide lawsuit that they filed in 1999 in a Spanish court against former de facto President Efraim Rios Montt and seven other former military or government officials. There were other incidents during the year of possible political intimidation of human rights workers; however, the reports could not be verified.

In addition to the increased number of threats, there was a series of break-ins or robberies in human rights NGO offices that some observers believed was part of an overall campaign to intimidate civil society. In March unknown persons broke into the offices of former presidential candidate and leftist leader Alvaro Colom, took files and computer information, and wrecked the office. They also defecated and urinated on tables and in hallways and scribbled political graffiti and insults on chalkboards. In May the National Coordinator of Widows of Guatemala, an NGO, reported what appeared to be an ordinary robbery of its daycare center in Santa Cruz del Quiche, which was followed a month later by a break-in at its Guatemala City office. On June 14, robbers stole three computers from a branch office of CALDH after drugging the night watchman. On September 4, four armed men entered the

offices of FAMDEGUA around noon and demanded keys to vehicles and money. They stole a FAMDEGUA vehicle, four computers, two laptops, a television, and other electronic equipment. The computers contained sensitive information about human rights complaints, statistics, and information regarding specific human rights cases, such as the Dos Erres massacre (see Section 1.a.). On October 26, an armed group assaulted the employees and robbed the offices of a group called Women Let's Advance. The assailants raped one employee, and stole several computers and other office equipment as well as the money and jewelry of the employees. On December 22, 2 days after the press reported that ODHAG would be bringing a genocide suit against former de facto president and current president of Congress, Efraín Ríos Montt, ODHAG's legal coordinator Mynor Melgar and his family were threatened, tied up, and robbed at gunpoint in their home. While the event contained elements of common crime, Melgar was threatened, and the perpetrators' actions showed premeditation in directing their actions to him specifically. While each of these incidents, if taken separately, could be explained as a common crime, the frequency of such incidents was a cause for significant concern.

Every 5 years, Congress elects the Human Rights Ombudsman from three candidates chosen by the Congressional Committee on Human Rights; the next election is scheduled to occur in August 2002. The Ombudsman reports to Congress and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. The Ombudsman, Julio Arango Escobar, operates with a large degree of independence from other branches of the Government, often passing judgment on controversial issues not normally considered human rights topics, such as bus fares and electricity rates. During the year, Arango continued to complain that the Congress neither funded his office adequately nor implemented his recommendations on human rights. The PDH's lack of funding limited the possibility of developing adequate investigative capabilities. Relations between the Ombudsman's office and MINUGUA were strained and distant. Upon the expiration of MINUGUA's mandate at the end of the year, the PDH was to take over MINUGUA's human rights verification function, but there was no visible preparation for the transfer of that responsibility by either party. MINUGUA said that its attempts to engage the PDH in meaningful preparations were rejected. On November 22, the Secretary General recommended to the General Assembly that the MINUGUA mission be extended for another year; it is expected to continue working on a reduced staff and budget through 2003 in accordance with the rescheduled Peace Accord implementation timeline.

COPREDEH continued to forge responsive and cooperative relationships with both domestic and international human rights monitors, often acting as a liaison between such groups and other government offices. Unlike in the previous year, COPREDEH took a more active approach in attempting to resolve cases before the IACHR. Due largely to the leadership of new COPREDEH president Victor Hugo Godoy, on March 3, the Government signed a series of precedent-setting agreements before the IACHR in which it accepted responsibility for several key human rights cases, including the Dos Erres massacre (see Section 1.a.); the murder of Myrna Mack Chang (see Section 1.a.); and the killing of street child Marcos Fidel Quisquinay by a live grenade placed in a bag of food. COPREDEH sought to negotiate amicable settlements with the victims or their survivors in these 3 cases and over 40 others pending before organs of the Inter-American human rights system. On March 29, the Government, represented COPREDEH, designated 46 cases that had been submitted to the IACHR as priority cases for seeking settlements with victims or their survivors. Similarly, on August 9, President Portillo signed an agreement with the IACHR in which he acknowledged the Government's general responsibility to pay reparations to victims or their survivors of human rights abuses committed during the internal conflict in 10 cases. On November 30, the Government, in compliance with a decision by the Inter-American Court on Human Rights, agreed to compensate the families of the murdered street children (see Sections 1.a. and 5). Also on November 11, President Portillo accepted the Government's responsibility in several other human rights cases, including the La Exacta Farm case (see Section 1.a.). During the year, the Government signed agreements covering 52 cases before the IACHR, out of a total of approximately 130, in which it pledged to indemnify victims or their survivors and investigate and prosecute those responsible. By December 5, the Government had entered into negotiations on a total of 79 cases before the IACHR. Human rights observers described this as a sign of a fundamental shift in Government policy regarding human rights.

MINUGUA maintained a human rights verification staff of approximately 70 persons, with 13 regional or subregional offices to monitor implementation of the human rights provisions of the Peace Accords and strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its inves-

tigations but cited occasional isolated incidents in which government officials or institutions had obstructed its efforts.

In April the Government hosted a visit by OAS Special Rapporteur on the Freedom of Expression Santiago Canton, whose visit focused on allegations of government censorship of a television news show and an alleged media monopoly by a Mexican businessman (see Section 2.a.).

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

The Constitution states that all persons are free and equal in dignity and rights, and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice the Government frequently is unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system.

*Women.*—Violence against women, including domestic violence, remained common among all social classes. The 1996 Law on Domestic Violence provides that the Public Ministry, the national police, family courts, legal clinics, and the PDH can receive complaints of domestic violence. Domestic violence is defined as “whatever action or omission by direct or indirect manner causes damage, or physical, sexual, psychological, or patrimonial suffering” to a person within the family group. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. Statistics vary significantly. The Procuracy General of the Nation registered 1,664 complaints in the first 10 months of the year, compared with 1,548 complaints in all of 1999. During the first half of the year, the PDH received 1,535 cases of abuse against women. In 1998 the PDH reported approximately 2,600 complaints of domestic violence nationwide. Of the total number of cases of domestic violence of all types (including child abuse), only 33 have gone to trial, resulting in 28 convictions. On July 28, an appeals court upheld a 2-year prison sentence for spousal abuse against Amado Morales. The decision is only the second such conviction in the country’s history—the first reportedly took place 8 years ago.

Complaints of spousal abuse continued to rise due, at least in part, to increased nationwide educational programs, which have encouraged women to seek assistance. Judges may issue an injunction against an abusive spouse or companion, and the police are charged with enforcing such injunctions. The Women’s Rights Department of the PDH and various NGO’s provided medical and legal assistance and information on family planning. The office of the Ombudsman for Indigenous Women, led by Juana Catinac Xom de Coyoy, was established in 1999 and began to provide social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It formed a coordinating committee and other advisory boards and representative assemblies from each of 24 linguistic groups. It opened its first branch offices and spent much of its first year resolving personnel, equipment, and organizational issues. On November 28, the Government announced the formation of the National Coordinator for the Prevention of Domestic Violence and Violence Against Women (CONAPREVI), which is to be chaired by the Secretary for Women’s Affairs, and include public sector representatives from the Public Ministry, the judiciary, the National Statistics Institute, and three representatives from the private sector Network Against Violence Against Women.

Victims rarely reported criminal sexual violence, although the number of complaints of such offenses continues to increase significantly. PNC statistics showed 323 rapes in 1999, (the latest year for which statistics were available), compared to 220 rapes in 1998. Many observers believed that this increase did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward, greater public confidence in the PNC, 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. Unofficial statistics suggested that there were 80 convictions during the year for rape or related crimes in 1999, compared with 67 convictions in 1998. In July the Public Ministry created a Special Victim’s unit, staffed 24 hours a day with doctors and nurses with rape test kits to assist rape victims in gathering evidence to use against their attackers. 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.

Sexual harassment in the workplace is common.

On May 23, the Portillo Administration announced the creation of a Secretariat for Women's Affairs. The Secretariat operates under the direction of the President, advising him on the coordination of policy affecting women and their development.

The Constitution asserts the principle of equality between the sexes. Nonetheless, in practice women face job discrimination, are less likely to win management positions, and on average receive significantly lower pay than men. Some women were subjected to preemployment pregnancy tests. Women are employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More working women than men are employed in the informal sector of the economy, where pay and benefits generally are lower. Women may own, manage, and inherit property on an equal basis with men. In 1999 the Congress repealed a rarely enforced Civil Code article that enabled a husband to deny his wife the right to work outside the home and an article that placed the husband in charge of administering the family's property.

The National Women's Forum, inaugurated in November 1997, continued to promote women's issues by participating in local and regional forums organized by political parties during the general election campaign. In May the Forum presented its 2-year plan for development and women's issues to the Government. The plan sets specific targets for development, including literacy, expanded primary school coverage, scholarship programs, and integrated women's health. In each of the 24 linguistic communities, women's groups are responsible for implementing and monitoring the Forum's policies and programs.

*Children.*—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. However, despite these provisions, the Government in the past has not devoted sufficient resources to ensure adequate educational and health services for children. Approximately 80 percent of children under the age of 18 live in poverty. The Government budgeted approximately \$345 million (2.69 billion quetzals) for education and \$178 million (1.39 billion quetzals) for health care; however, the percent of the country's GDP that was spent on education decreased from 2.46 percent of GDP in 1999 to 2.3 percent during the year.

A MINUGUA report, issued on December 11, found that 51 percent of the population is under 18 years old; of this group, 83 percent live in poverty; 46 percent of children under the age of 5 suffer chronic malnutrition and another 24 percent suffering periodic malnutrition. There are approximately 200,000 orphans throughout the country, approximately 10,000 children in gangs, and 6,000 children living on the streets. A total of 444 children have disappeared since 1996.

The Constitution provides for compulsory education for all children up to the 6th grade. However, less than half the population actually receives a primary education, and only 3 of 10 students who begin primary school complete it. One-fourth of all children do not attend school. These are concentrated in rural areas, and a disproportionate number are indigenous. Only one of eight girls who begin school graduates from the 6th grade. According to a December MINUGUA report, the average Guatemalan child receives 2.3 years of education; however, when only indigenous children are considered, the average drops to 1.3 years of education. Children in rural and indigenous areas are less likely to complete primary school.

Approximately 2.1 million children between the ages of 5 and 12 were enrolled in schools in 1999, according to the Ministry of Education. The Ministry also reported that 3,461 communities had access to educational services for the first time. The PDH reported in 1999 that 38 percent of elementary school-age children and 79 percent of secondary school-age children do not attend school. There were special initiatives to promote the education of girls, and about 49,000 girls received incentive scholarships from PRONADE, a privately run program under the auspices of the Ministry of Education, during the year, in addition to approximately 12,000 scholarships from other government institutions and international organizations.

Most estimates indicated that reports of child abuse continue to increase, although there are few statistics available to measure the problem. The Procuracy General reported 1,126 cases of child abuse as of December 5, compared to 1,478 cases in 1999 and 1,172 cases in 1998. A total of 70 cases reported during the year concerned physical abuse; the remainder involved sexual or psychological abuse. Out of a total of 4,250 cases of domestic violence, the PDH investigated 126 complaints of child abuse during the year. The largest percentage of these complaints were for physical, emotional, and sexual abuse, as well as neglect. A Permanent Commission for Children and Youth investigates cases of mistreatment of children. The Social Secretariat for the Welfare of Children has oversight for the children's welfare program, treatment and training for children, and special education assistance for children. The Secretariat provides shelter and assistance to children who are victims

of abuse; however, due to lack of resources, these children sometimes are placed with other youths who have committed crimes.

Abuse of street children remained a serious problem in major cities (see Section 1.c.). Most credible estimates put the number of street children at approximately 6,000 nationwide, with about 3,500 of these youths concentrated in Guatemala City. The NGO Casa Alianza increased its estimates of the number of homeless persons to 25,000, of whom 8,000 are children. Approximately 1 in every 1,000 children lives on the street. The majority of street children ran away from home after they were abused. Criminals—reported to include private security guards and corrupt police or military personnel—often recruited these children into thievery or prostitution rings. According to Casa Alianza, drugs, prostitution, and gangs posed the greatest danger to this vulnerable group during the year. Most violence against street children was committed by individuals, private security guards, and other street children, not by police or other government forces. There was only one report of abuse of street children by PNC officers, in which several officers allegedly threatened five street children. The Government and a number of NGO's operate youth centers, but the funds devoted to them are not sufficient to alleviate the problem. The Government maintains one shelter for girls and one shelter for boys in Guatemala City; these shelters provide housing for the homeless and incarceration for juvenile offenders. A new phenomenon developed as street children began giving birth to a second generation of street children, dubbed "street babies." Casa Alianza reported three cases of kidnaping or forced disappearance of street babies by unknown individuals.

On November 30, the Government, in compliance with a decision by the Inter-American Court of Human Rights, agreed to compensate the families of the street children who were killed between 1990 and 1995 (see Section 1.a.). In addition to the modest \$11,500 per victim compensation, the Government also promised to develop programs to prevent the abandonment of and violence against street children.

In August ODHAG issued its report on children missing in the armed conflict (see Section 1.b.). A report by ODHAG issued in September found that children accounted for 20 percent of the victims of arbitrary extrajudicial executions during the armed conflict, and that 27 percent of the victims of sexual abuse committed during the armed conflict were children.

On February 29, Congress indefinitely suspended a proposed new Minors' Code due to strong political opposition from certain powerful sectors, reportedly led by the adoption attorneys who receive large financial gains from nonjudicial adoptions that would have been eliminated under the new code. Other opponents, including religious leaders, argued that the code derogated parental rights and threatened the integrity of the family. The bill was to have become law on March 3. Debate on changes to the code continued during the year.

COPREDEH continued weekly meetings of the Permanent Commission for Children, composed of representatives from Casa Alianza and from the judicial and executive branches, with the aim of addressing the problems of street children. The Government continued its program to train instructors to educate civil society groups and the public about children's rights.

Sexual exploitation of children is a growing problem, including child prostitution and the trafficking of children for purposes of prostitution. The Ministry of Labor noted an increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution (see Section 6.f.). The proposed Minor's Code would have mandated stricter punishments for parents who force their children into prostitution, and for adults who solicit child prostitutes.

*People with Disabilities.*—The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in education and employment practices, and few resources are devoted to combat this problem or to assist the disabled. The PDH continued to draft proposed regulations to implement the provisions of the 1996 Law on Protection of the Elderly and the Law on Attention to Disabled Persons, which mandates equal access to public facilities, prohibits discrimination based on disability, and provides other legal protections. The law defines a disabled person as one whose physical, mental, or emotional deficiencies limit performance of normal activities. It stipulates equal opportunity for disabled persons in health, education, work, recreation, sports, and cultural activities. It also provides that all disabled persons receive the benefits of labor laws and social security and have the right to work. In addition the law establishes equal education opportunities, the requirement that buildings meet access codes, and the right to equal pay. While implementation of the new law has been slow, a National Council for the Disabled, composed of representatives of concerned

government ministries and agencies, met regularly to formulate regulations needed to implement the legislation.

*Indigenous People.*—The Constitution states that the country is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, forms of social organization, and manner of dress of indigenous people. In 1999 the Arzu Government created the office of Ombudsman for Indigenous Women and appointed Juana Catinac Xom de Coyoy as its first Director.

Indigenous people constitute over one-half the population but remain largely outside of the country's political, economic, social, and cultural mainstream. An October U.N. report stated that 73 percent of indigenous persons, and 72 percent of those living in rural areas, face an institutional lack of economic possibilities and limited access to basic services. The 1994 census, the most recent, stated that 42.8 percent of the population is indigenous; however, most observers believe that this figure is low and that indigenous people constitute a majority of the population. There is no single indicator of indigenous status, and there are at least 22 separate Mayan ethnic groups, each with its own language. In addition to the indigenous Mayan groups, there is an indigenous Xinca community of some 6,000 persons. The Garifuna, descendants of Africans brought to the Caribbean region as laborers and who later migrated to South and Central America, are a separate minority group.

Indigenous people were the most common victims of extrajudicial killings and other serious human rights abuses during the internal conflict. The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites. Indigenous people continued to organize themselves into interest groups to promote bilingual education, women's rights, and community development. Politically, the indigenous groups remained fragmented, and there was little agreement among the Mayan groups on common goals or strategies to increase their political representation and power. The Government devoted marginally increased resources to bilingual education. Contrary to previous years, there were no reports of schools denying children the right to wear traditional indigenous dress, a common complaint under the previous administration.

Rural indigenous people have limited educational opportunities and thus have fewer employment opportunities. Many indigenous people are illiterate or do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, since few officials speak any of the 24 indigenous languages. In 1998 the Indigenous Languages Officialization Commission issued a report, in which it recommended that a variety of public services be provided in the four most widely spoken indigenous languages (K'iche', Q'eqchi', Mam, and Kaqchikel), with a lesser degree of services provided in less widely spoken indigenous languages.

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. In 1999 there were 67 interpreters at all levels of the legal system, from the police to the formal courts, to assure non-Spanish speakers the means to bring complaints, resolve conflicts, and provide testimony. Interpreters were concentrated in former conflict areas of the country; more interpreters were in training. The Public Defender's Office began hiring attorneys fluent in indigenous languages and assigning them to areas where they could serve as translators in addition to defending their clients. The Government also made efforts to recruit justices of the peace who are bilingual in Spanish and an indigenous language. In January 1998, several community courts were created in primarily indigenous, rural areas to decentralize justice and incorporate customary Mayan law for minor offenses. In August there were several incidents in which indigenous common law courts were convened to hand down sentences, including whippings and other forms of corporal punishment, against suspected criminals and other delinquents (see Section 1.e.). The University of San Carlos offers a postgraduate degree in indigenous customary law. Judges, prosecutors, public defenders, judicial translators, and others already have received the degree, which emphasizes criminal law and human rights.

Contrary to the previous year, no indigenous leaders disappeared during the year. There was one credible report of an indigenous leader killed for political reasons, Jose Mendoza Garcia (see Section 1.a.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide workers with freedom of association and the right to form and join trade unions. The

Government does not control unions. Although internal intelligence services allegedly monitor the activities of politically active union leaders, there is no direct state interference in union activities. In June the Labor Ministry proposed a package of major reforms intended to strengthen the Labor Code's protection of worker rights. In December the Labor Ministry proposed a revised Code of Labor Procedure aimed at streamlining labor dispute litigation. The proposed Labor Code reforms would increase the fines for firing workers who organize unions and define the mission of the Labor Ministry as that of "carrying out a national policy of defense and development" of worker rights. The reforms were pending at year's end. The most recent reforms to the Labor Code in 1992 mandated steps to improve worker rights by facilitating freedom of association, strengthening the rights of working women, increasing penalties for violations of labor laws, and enhancing the role of the Labor Ministry and labor courts in enforcing labor law. However, enforcement of the law is weak. Despite continuing credible efforts to enlarge it, the labor inspection system remains ineffective, inadequate, and corrupt. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces. However, retaliation by employers—including firing, intimidation, and sometimes violence—against workers who try to exercise internationally recognized labor rights is common and usually goes unsanctioned. In its November report to the International Labor Organization (ILO) Governing Body, the ILO's Committee on Freedom of Association detailed five cases of dismissal of workers for unionizing activity in which courts ordered the workers reinstated but the employers never complied. In some of these cases, appeals and reappeals by employers of court decisions against them have continued the proceedings for years, revealing the inability of the courts to dismiss frivolous appeals and have their decisions enforced.

The law provides for a system of labor and social welfare courts to rule on violations of the Labor Code. Employers often failed to comply with the decisions of the Labor Courts and suffered no effective sanctions for having done so. Throughout the economy, employees were reluctant to exercise their right of association for fear of reprisal by employers. Workers had little confidence that the responsible executive and judicial institutions would defend effectively their rights as employees when employers violated those rights. In addition the weakness of labor inspectors, the failures of the judicial system, poverty and lack of education, the legacy of violent repression of labor activists during the internal conflict, and the deepseated hostility of the business establishment towards independent and self-governing labor associations constrained the exercise of worker rights. In its 4th Report on the Peace Process, MINUGUA noted that "genuine trade union freedom does not exist" due to antiunion violence.

According to the Labor Ministry, less than 2 percent of the work force (about 60,000 persons) belong to labor organizations. The approximately 1,300 registered unions and 400 company-sponsored "solidarity organizations" were independent of government and political party domination. However, the International Confederation of Free Trade Unions (ICFTU) in a September 1999 report described the solidarity organizations as "set up by employers to undermine trade unions." The administrative process for unions to obtain legal status has been simplified progressively over the past decade. In 1996 the Ministry of Labor reduced the number of steps within the Ministry for consideration of union applications and established strict timetables for approval or denial; the time for the procedure was reduced to 20 days from 60. During the year, the Labor Ministry expanded its program to assist unions with their applications. During the year, the Ministry also simplified the process for forming federations and confederations. The Labor Ministry granted legal status to 42 unions during the year. In 1999 there were 1,389 registered unions, including 401 unions in the public sector and 988 unions in the private sector.

On October 13, 1999, a group of men, many of them armed, took control of the union hall of the SITRABI banana workers union in the town of Morales, Izabal. There were credible reports that leaders of the vigilante group repeatedly threatened to kill some of the union leaders. During the incident, which lasted over 8 hours into the morning of October 14, about 20 rank-and-file union members reportedly were held captive for much of that time on the bus in which they had come to the union hall. There were several credible reports that armed men forcibly entered the home of one of the union leaders and made him go with them to the union hall. Various union leaders and rank-and-file members were shoved and struck. Union leaders were forced to sign letters of resignation from their positions in the union and from their jobs. The Ministry of Labor immediately declared the coerced resignations to be invalid. MINUGUA's report on the incident called it "one of the most serious violations of human rights since the signing of the Peace Accords."

Despite the availability of dozens of potential witnesses, and therefore little doubt as to the essential facts, the investigation and indictment process that followed was lengthy and slow to progress. According to MINUGUA, law enforcement failures attendant to this incident included police inaction as the incident took place, lapses in applying the Code of Criminal Procedures during the indictment phase, and a weakening of the charges finally placed against the accused. In June the first instance court rejected charges of abduction, intimidation, aggravated trespass, and aggravated illegal detention, which were sought by the prosecution. The first instance court arraigned 24 defendants on charges of trespass, illegal detention, and coercion. The trial date is scheduled for spring 2001.

The ILO's Governing Body, sitting as the Committee on Freedom of Association, published a detailed account of these events in its report released in November. The report noted that "the BANDEGUA enterprise denies any links with the acts of violence while the trade union accuses it of being responsible for them." (SITRABI is the union of BANDEGUA employees; BANDEGUA is the Guatemalan subsidiary of Del Monte Fresh Produce). In the background to this violence against these union leaders was the firing of 897 workers by BANDEGUA in September 1999, in violation of the contractual agreement "in force between the enterprise and the trade union." In October the Ministry of Labor facilitated the completion of a collective bargaining agreement between the SITRABI union and the lease holding contractors of BANDEGUA who had taken up operating the plantations on which the 918 workers had worked as directhire BANDEGUA employees.

Workers have the right to strike, but labor code procedures for having a strike recognized as legal are cumbersome. Labor organizers have criticized the law, which requires that two-thirds of the work force must approve a vote to strike, prohibits strikes by agricultural workers at harvest time, and allows the Government to prohibit strikes that it considers seriously harmful to the national economy. Employers may suspend workers or fire them for absence without leave if the authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if an impasse has been reached after 30 days of negotiation.

In 1996 Congress approved a law that further restricted the right to strike for workers employed in a range of essential public services, including urban and inter-urban transport, mail, and telegraph. Unions had opposed the law strongly, and some members of Congress called the measure unconstitutional and contrary to obligations under ILO conventions. However, the Constitutional Court declared it constitutional in 1997. This essential services strike legislation gives the President the authority to intervene forcefully should strikes threaten the orderly functioning of society. The Labor Code reforms proposed in June would undo the provisions of this law that the ILO regards as incompatible with ILO standards with respect to the right to strike. The proposed reforms would reduce the number of workers required to call a legal strike to a simple majority. The proposed reforms would limit essential services to health, communications (including air traffic control), and public transport, and provide for legal strikes in those sectors so long as minimum services are maintained.

There were no significant strikes during the year.

The law protects workers from retribution for forming unions and for participating in trade union activities, but enforcement of these provisions is inconsistent. Many employers routinely seek to circumvent labor code provisions in order to resist unions, which they view as disruptive and as a challenge to their full control of the workplace. An ineffective legal system and inadequate penalties for violations have hindered enforcement of the right to form unions and participate in trade union activities. Although the Labor Code provides that workers illegally fired for union activity should be reinstated within 24 hours, in practice employers often filed a series of appeals or simply defied judicial orders for reinstatement. Penalties for defying such orders were increased somewhat in the 1992 Labor Code reform and further in a decree that went into effect in June 1998. The Labor Ministry has worked to "promote the restructuring of labor relations in enterprises by encouraging labor-management cooperation" and bring about a "culture of negotiation" as called for by the Peace Accord on Social and Economic Aspects and the Agrarian Situation. However, productive, good-faith negotiations between employer and worker representatives have been the exception rather than the rule. The majority of unions that engaged in collective bargaining during the year reported that employers increasingly rejected the underlying premise of collective bargaining—that power in the workplace can be shared equitably according to a contract between the employees and company management.

Impunity for acts of intimidation and violence against trade union members remains a problem. In its Fourth Report on the Peace Process, MINUGUA noted that "genuine trade union freedom does not exist" due to antiunion violence. In its No-

member report, the ILO noted that 12 murders, some of which date back to 1995, of union leaders and union members, have not yet been investigated credibly nor effectively prosecuted. In June Mixco city councilman Francisco Rodas left the country, alleging persistent, credible death threats following his campaign to have 400 fired municipal workers reinstated by Labor Court rulings. Mixco Mayor Elmer Morales fired the workers in the months after he assumed office in February and was the suspected source of the threats.

An active "solidarity" movement claims to have approximately 170,000 members in about 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between the two or to belong to both. The Government views these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates very clearly that trade unions have an exclusive right to bargain collectively on work conditions on behalf of workers. However, unions charge that management promotes solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. There were credible reports that some of these associations did not always adhere to democratic principles in their formation and management and that workers were unable to participate fully and freely in decision-making. Similar credible charges were made against some trade unions.

The Human Rights Ombudsman's office for economic and social issues receives complaints related to violations of internationally recognized worker rights. Union leaders and workers filed over 100 complaints with the PDH in 1999, and the Ombudsman has made public statements about labor conditions in various sectors of the economy. The PDH can investigate union complaints and issue a statement, but the office has no enforcement powers beyond attempting to resolve the situation through publicity and moral 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 practice of collective bargaining is constrained by legal restrictions, according to a report by the ILO Committee of Experts (COE). The COE called on the Government to remove the legal requirement that a collective bargaining agreement be submitted to the Government and that it have two-thirds support of union members. The COE report also lists seven other reforms necessary to provide for full exercise of the right to organize and bargain collectively. The practice of collective bargaining also is limited by the weakness of the labor movement; the requirement that 25 percent of the workers in a factory or business must be union members in order for collective bargaining to take place; the lack of experience with collective bargaining; and management's aversion to sharing power with worker associations. Both management and labor honored wellwritten collective contracts at some firms; however, in others management, and sometimes labor, chose to ignore the contractually binding collective bargaining agreements. Between 1995 and 1999, 153 collective bargaining agreements were concluded between employers and employees and registered with the Labor Ministry. Nearly all of these agreements remained in force at the end of the year; although some had expired and were under renegotiation. Most workers, even those organized in trade unions, do not have collective contracts to cover their wages and working conditions nor do they have individual contracts as required by law. According to a study released in November by the Association for Research and Social Studies, only 10 percent of workers have a contract duly registered with the Labor Ministry as required by law.

Employers legally cannot dismiss workers for helping to form a trade union; workers file complaints in this regard with the labor inspectors for resolution; however, the Government does not enforce this law effectively. 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 union worker fired without cause. The Labor Code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. 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 they are no longer on the executive committee. An employer may fire a member of the union's executive committee for cause only after a trial and issuance of a court resolution. However, the Government does not enforce these laws in practice.

Despite governmental, bilateral, and multilateral efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts, including 7 in the capital and 13 elsewhere around the country. An additional nine courts deal with labor issues as part of their jurisdiction. The weakness

of the judicial system as a whole, the severe shortage of competent judges and staff, and a heavy backlog of undecided cases all contribute to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors, and the lack of training and resources devoted to detecting and investigating Labor Code violations, compound the weakness of the labor courts. However, government efforts to improve the labor inspection system continued. At year's end, there were 80 full time, professional labor inspectors on the rolls of the Ministry of Labor. In September the Ministry hired another 70 inspectors under temporary contracts. The Ministry of Labor continued to increase its rate of inspections and fired some incompetent or corrupt inspectors. Ministry figures show that over 2,000 investigations or inspections were conducted between January and August 1999. A portion of these inspections was a successful campaign to improve compliance with labor standards in the inbond processing for export or "maquila" sector. In addition some represented an effort to ensure compliance with minimum wage provisions. As a result of this revitalized labor inspection effort, the Labor Ministry filed 1,136 complaints for uncorrected labor law violations during the year, which was a record number.

The Ministry of Labor has reorganized its labor inspection system to permit some complaints to be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry instituted a set of complaint assistance, small claims mediation, and informational initiatives designed to provide better services to workers. The Ministry continued its educational campaign on worker rights (especially the rights of minors and women), which included a campaign of radio announcements and the provision of some documents in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Seven of the Ministry's offices outside the capital have been accorded regional authority. These regional offices, in addition to labor inspectors, also include specialists in women and workplace issues, managementworker relations/conflict resolution, and minor workers/child labor issues. The Labor Ministry plans to give these regional offices supervisory authority over branch offices in the departmental capitals of each region.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's); however, they are enforced weakly. (Maquilas that make garments for export operate under an EPZ-like regime, although they are not located in distinctly set-apart areas.) The laws governing the EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. Union leaders often blamed their inability to organize workers in these zones on employer pressures and unofficial restrictions on their access to the EPZ's. While labor standards in the EPZ's were no different from those found outside the zones, actual working conditions were often better.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution bars forced or compulsory labor, and the practice generally does not exist. The ILO COE urged the Government to ensure the rapidity of judicial processes and inquiries concerning compulsory labor and to ensure the imposition of penalties and the strict enforcement of laws. The law does not prohibit specifically forced or bonded labor by children, but they are covered by the general constitutional provision. Forced or bonded labor by children generally did not occur; however, children were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. However, children below this age regularly are employed in the informal and agricultural sectors, usually in small family enterprises. A MINUGUA report, issued on December 11, found that 34 percent of children between the ages of 7 and 14 work. The law prohibits minors from night work and extra hours (the legal workday for minors under the age of 14 is 6 hours; for minors 14 to 17 years of age, it is 7 hours), from working in establishments where alcoholic beverages are served, and from working in unhealthy or dangerous conditions. However, between 3,000 and 5,000 children were employed in the illegal cottagebased fireworks industry. The Labor Ministry estimated that approximately 10 percent of the children in this industry work illegally in factories, while younger children, under the age of 14, typically work at home on piecework taken in by their families. On July 12, an explosion in a family-run home fireworks workshop killed three siblings, including a 13-year-old; all three were working in their father's illegal fireworks factory in San Raymundo Sacatepequez. The accident was due to carelessness and inexperience handling explosives; and was typical of accidents that occur regularly in the informal cottage fireworks industry.

Laws governing the employment of minors are not enforced effectively, due to the shortage of qualified labor inspectors and the weakness of the labor court system.

The Association for Girls and Boys in Central America estimates that approximately 2 million children work. The majority of child laborers work in agriculture (family farms, coffee, and sugar cane harvesting), while others work in domestic service, construction, various family businesses, stone quarrying, rock-breaking, fireworks manufacturing, shining shoes, begging, performing in the streets, or other jobs. According to Labor Ministry statistics, between 1995 and 1999, 507 permits were issued authorizing the employment of minors. The Ministry of Labor's efforts to reduce the number of these permits issued had the unintended effect of increasing the number of minors applying for work with falsified age documents. Many children under the age of 14 work without legal permission and are open to exploitation. They generally receive no social benefits, social insurance, vacations, or severance pay, and earn below-minimum salaries.

The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. In 1992 the Government formed the Child Worker Protection Unit within the Ministry of Labor. Late in the year, the Ministry of Labor, with the support of a group of NGO's, finalized a National Plan for the Prevention and Eradication of Child Labor and Protection of Adolescent Workers. Implementation of the 1997 Children's and Minor's Code has been suspended indefinitely because of political controversy over its provisions (see Section 5). Economic necessity forces most families to have their children seek some type of employment to supplement family income, especially in rural and indigenous communities. Children who work generally do so in family enterprises. Education is compulsory for all children up to the 6th grade. The law does not prohibit specifically bonded labor by children, but they are covered by a constitutional prohibition on forced or compulsory labor. Bonded labor by children generally did not occur; however, children were trafficked into prostitution (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The law sets minimum wages; however, non-compliance with minimum wage provision in the rural and informal sectors is widespread. The Ministry of Labor oversees a tripartite committee, which includes formal sector representatives of labor and management, and makes recommendations for increases in the minimum wage. In the event that agreement is not possible, the Government may decree such increases. The Executive Branch promulgated the most recent minimum wage increase by decree, after the tripartite commission was unable to reach a consensus, and it took effect on December 16. This decree raised the minimum daily wage for agricultural work by \$0.45 (3.46 quetzals) to \$3.24 (25.08 quetzals). It raised the minimum daily wage for service, industrial, and government sector work by \$0.49 (quetzals 3.82) to \$3.57 (27.67 quetzals). In March the National Legislature mandated by decree an incentive bonus that augments the minimum wage. This decree increased the minimum wage by ordering that an incentive bonus be paid for each hour worked—\$0.09 (0.6725 quetzals) per hour for agricultural workers and \$0.08 (0.64375 quetzals) per hour for industrial and other workers. This raises the legal minimum wage for a regular 8-hour day to \$3.93 (30.46 quetzals) for agricultural work and \$4.32 (32.82 quetzals) for service, industrial, and government sector work. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. According to the UNDP, at least 80 percent of the population live below the poverty line, including approximately 60 percent of those employed. In November MINUGUA reported that a minimum wage adequate for feeding a family of six would have to be nearly 80 percent higher than the current minimum wage. MINUGUA also reported that a minimum wage also adequate for clothing, sheltering, and educating a family of six would have to be nearly 225 percent higher than the current minimum wage.

The legal workday is 8 hours and the workweek is 44 hours, but a tradition of longer hours remains in place due to economic conditions. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charge that workers sometimes were forced to work overtime, often without premium pay, in order to meet work requirements. Labor inspectors report uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system, inhibit adequate enforcement of the law.

Occupational health and safety standards are inadequate. Many of the provisions of the applicable law—which dates back to 1957—are archaic, making enforcement problematic. During the year, as part of its effort to address this situation, the Ministry of Labor participated in a number of international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. Enforcement of occupational health and safety standards that do exist and could be applied reasonably is weak. When serious or fatal industrial accidents occur, the authorities often fail to investigate fully and to assign responsibility for negligence, if any. Employers rarely are sanctioned for having failed to provide a safe workplace, although

the authorities did suspend one maquila operation for safety shortcomings, and threatened about a dozen others, in some cases repeatedly, with a suspension of operations if they failed to improve safety conditions. The Labor Ministry provides training courses for labor inspectors in health and safety standards, and has given such training a higher priority despite scarce resources. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers has not been well enforced; however, most large employers provided such facilities for their employees. Workers have the legal right to remove themselves from dangerous workplace situations, and the law provides them with protection for their continued employment. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons unless that trafficking involves entry into or departure from the country for the purpose of prostitution. In addition an immigration law that came into effect in January 1999 made alien smuggling a crime punishable by imprisonment. The law mandates sentences of 5 to 8 years in prison for those found guilty of “promoting or facilitating the illegal entry of persons.” Prostitution is not illegal; there are certain health code requirements for persons engaging in prostitution. Pimping and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and children, primarily for the purpose of prostitution, is a growing problem.

The country is a significant transit country for alien smuggling, both from neighboring Latin American countries and from China, Taiwan, and south Asia; aliens often are smuggled to the United States. Traffickers use force, coercion, fraud, and deception. In one instance, Chinese male victims apparently agreed to debt bondage to pay off their transportation costs, while female victims, some of whom were under the age of 18, apparently were being taken to the United States to work as prostitutes. The victims were told that their families in China would suffer if they broke the debt bondage agreement.

The Defense of Children’s Rights unit in the PDH and the Minors’ Section of the Public Ministry regularly investigate cases of trafficking. Officials in the Labor Ministry also raise the issue with the police and social welfare agencies as part of their efforts to combat child labor and child exploitation. There are no programs specifically designed to provide shelter or rehabilitation to victims of trafficking. NGO’s that focus on women and children’s rights often help victims of trafficking and work to educate the population about the dangers of trafficking; however, there are no NGO’s that focus solely on trafficking.

The Ministry of Labor, UNICEF, and the U.N. Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, who visited the country in July 1999, have noted a marked increase in child prostitution over the past 2 years in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution. In its annual report for 1999 on the state of children, ODHAG clearly identified the growing problem of child prostitution as linked inextricably to that of trafficking in persons. The report notes that no child prostitute “got there alone” without inducement and exploitation by adults.

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## GUYANA

The Co-operative Republic of Guyana is a small nation struggling with the problems of consolidating its democratic institutions. It 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 December 1997, citizens voted in a free and fair national election to return the People’s Progressive Party (PPP) and its Civic (C) partner to office. Social unrest and occasional violence marred the post-election period, with the main opposition party alleging that the election was fraudulent; charges that international observers considered unfounded. Nonetheless, as part of a Caribbean Community (CARICOM) brokered compromise between the two parties, the PPP/C alliance agreed to shorten its constitutionally mandated 5-year term to 3 years, and a new election is scheduled for 2001. The judiciary, although constitutionally independent, is inefficient and often appears subject to government influence.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) are under civilian control. The GPF has the authority to make arrests and maintains law and order throughout the country. The GDF is a professional military responsible for na-

tional defense, internal security, and emergency response. Some members of the police force committed human rights abuses.

Guyana is a very poor country. The economy, which for years was centrally planned and controlled, is based on a mix of private and state enterprises. Rice, sugar, bauxite, and gold are the major exports. There are severe shortages of skilled labor and the economy is constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Real economic growth unofficially was estimated at 0.5 percent, compared with 3 percent in 1999. Per capita gross domestic product is estimated at \$824, and over half the population lives in poverty.

The Government generally respected the human rights of its citizens; however, serious problems remain in several areas. The police continued to commit extrajudicial 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 remain poor, and lengthy pretrial detention remains a problem. The inefficient judicial system results in long delays in trials. Police infringed on citizens' privacy rights. Violence against women and children, societal discrimination against women and indigenous Amerindians, and incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese are problems, as is child labor in the informal sector.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—The police continued to commit extrajudicial killings. The Guyana Human Rights Association (GHRA) reported that the police killed 13 civilians during the year, compared with 9 in 1999, 11 in 1998, and 27 in 1997. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed.

The GHRA also expressed concern about the death in custody of Shawn "Big Bird" Nedd, who reportedly was shot and killed on February 7 by police after being arrested, while being held in a vehicle of the "Quick Reaction Squad." Eusi Kwayana of the Working People's Alliance political party filed a private criminal charge against a police constable for Nedd's death. In July the Director of Public Prosecutions (DPP) dismissed the case.

On February 9, police shot and killed criminal fugitive Linden "Blackie" London, a former army officer wanted for 4 murders and 14 robberies. Television cameras recorded a police officer shooting London as he appeared to surrender to the GDF. The manner of London's death led to speculation that he was executed to prevent him from revealing details of criminal connections within the Government or the security services. Several thousand persons attended London's funeral on February 16, including former President Desmond Hoyte, who publicly condemned extrajudicial killings by police. Rhonda Forde, a female companion of London's, died when she was shot during the exchange of gunfire. On February 18, a government official announced that an independent board would not be established to investigate police actions during the standoff, but that police and defense forces would conduct a joint services investigation. However, no results of any investigation of London's killing have been made public.

On March 18, a police squad shot and killed Hilton Rodrigues, wanted for murder and robbery; a police constable also was killed in the shootout. On June 23, a police officer shot and killed 26-year-old Ramdeo Rampersaud while attempting to arrest him on rape charges.

On August 18, a policeman shot and killed 14-year-old Trevor Crossman in Ituni, along the Demarara River. The policeman mistook him for his older brother, with whom the policeman had argued. In order to express public sympathy for the family, the Police Commissioner attended Crossman's funeral. The authorities charged the policeman with manslaughter; on September 8, he was released on bail pending trial.

On September 3, Mohammed Shafeek died in the Brickdam police lockup. An autopsy revealed that Shafeek was beaten all over his body; his skull and neck were fractured. The Home Affairs Minister initially announced that police reports indicated that Shafeek might have been beaten by other prisoners. However, the Police Commissioner subsequently announced on September 28 that an investigation revealed that Shafeek was beaten by the Venezuelan crew of a ship that had since left the country, and that the police had arrested him for disorderly conduct. The commissioner added that Shafeek should have been hospitalized instead of being placed in a prison cell, and that procedures would be instituted in the future to ensure that injured prisoners were hospitalized. On October 4, the police submitted

a 20-page report to the DPP. The report noted that disciplinary action would be taken against police officers involved. At year's end, an inquest was scheduled for January 2001.

On November 21, a presidential guard allegedly shot and killed fruit vendor Oscar Daniels in Georgetown. The guard reportedly was aiming at Daniels' cousin, with whom he had argued, and the guard took Daniels to a hospital, but he died on the way. Shortly thereafter, the guard returned to duty until media reports led to his removal. At year's end, an inquest was pending.

Throughout the year, the Rise Organize and Rebuild (ROAR) political party complained about threats and harassment from the ruling PPP. ROAR portrayed the murder on November 12 of a man named Mohan, the father of ROAR's organizer in the Essequibo region, by a PPP supporter as a result of the PPP's campaign against it. However, the ROAR presented no evidence that connected the killing to the PPP.

There were no new developments in most of the extrajudicial killings by police in previous years, including the police shootings of Fazal Narine and Colin McGregor in 1999. In April a jury found that no one could be held criminally responsible for the death of Victor "Junior" Bourne in 1998. Two police superintendents were charged with killing Bourne but defended themselves by asserting that they acted in self-defense. Human rights monitors questioned the jury's verdict by noting that the police version of the shooting was contradicted by eyewitness testimony, which stated that Bourne was in bed asleep when police shot him. Amnesty International issued a statement criticizing the verdict and expressing concern over the climate of police impunity in the country.

On March 30, the U.N. Human Rights Committee made 22 recommendations to the Government, including a call for prompt investigation by an impartial body of extrajudicial killings and excessive use of force. It also called for measures to be taken to ensure the prosecution of offenders and to provide effective remedies to victims. The Committee recommended that all law enforcement officials receive thorough training in international human rights standards.

Many justice authorities and human rights activists say that because of rising crime and pressure from urban businesses, which are often the targets of criminals, the Government has taken a lax attitude toward investigation of alleged police abuses. In general police abuses are committed with impunity.

The Police Complaints Authority (PCA), established in 1989, is composed of five members who investigate complaints against police officers. The statute provided for the independence of the PCA; however, most members are themselves members of the criminal justice system, and the PCA is not truly independent. The PCA received 69 complaints during the year (compared with 45 in 1999), completed investigation of 27 of them, and sent them to the Police Commissioner for action. However, there is no information publicly available on the status of these investigations. The PCA has not submitted an annual report since 1995. Even when police officers do face charges, most of the cases are heard by lower magistrate courts, where other specially trained police officers serve as the prosecutors. As a result, human rights activists question officers' commitment to prosecuting their own colleagues.

In response to the growing number of complaints against the police, the police established the Office of Professional Responsibility (OPR) in 1997. During the year, the OPR received 150 cases; it completed action on 97 of them and was awaiting instructions from the DPP on 27 cases. Since its inception, the OPR has carried out investigations of complaints against police, and at least 99 cases have resulted in some type of disciplinary action being taken against police officers.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, police continued to abuse suspects, although to a lesser degree than in the previous year. From 1995 to 1997, the GHRA received an average of 20 complaints per year from victims who had been beaten by police while in custody. The GHRA still considers police mistreatment of prisoners 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 "problematic" prisoners.

On September 3, Mohamed Shafeek died in the Brickdam police lockup, after being arrested the previous day (see Section 1.a.).

Prison and jail conditions were poor, especially in police holding cells. Georgetown's Camp Street Prison, the country's largest, is extremely overcrowded. For most of the year, Camp Street held between 900 and 1,100 prisoners in space initially designed to hold 350. Conditions in the country's four smaller prisons generally are adequate. In 1997 when the Director of Prisons reported that a prisoner had died in part due to overcrowding at the Camp Street Prison, the Government

responded by assigning more full-time nurse practitioners and pharmacists to the prison system and by requiring that doctors visit prisons more regularly. Prison directors and inmates reported that, over the course of the year, medical coverage improved. The GHRA continues to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale is a serious problem within the prison system. Prison staffers are poorly paid, and their salaries and benefits are insufficient to compensate for the on-the-job risks; however, they try to assist prisoners as much as possible. Prison officials lobbied the Government for increased funding to improve prison conditions; they also encouraged efforts by local and international nongovernmental organizations (NGO's) to improve physical and sanitary conditions.

Although sanitary and medical conditions in police station temporary holding facilities vary, in almost all cases these conditions are worse than those in the prisons. Some such jails are bare, overcrowded, and damp. Few have beds, washbasins, furniture, or utensils. Meals are normally unavailable; friends and relatives must bring detainees food and water. Cells rarely have sanitary facilities, and inmates sometimes are escorted by staff members outside the cells to use holes in the floor for toilets. Inmates generally sleep on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown has poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically holds up to 30 detainees and is often the site of violence between inmates. Although precinct jails are intended to serve only as pretrial holding areas, some suspects have been detained there as long as 4 years, waiting for the overburdened judicial system to take action on their cases.

In October the GHRA criticized prison authorities for the death of Michael Ramcharran at the hands of another inmate, which the GHRA said was the direct result of overcrowding at the Camp Street Prison. To reduce overcrowding, the GHRA called on the judiciary to consider alternate sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. However, the Government did not adopt any of these recommendations. Since then, the Parole Board has become more active, but still is reluctant to release prisoners due to insufficient post-release resources, including a lack of probationary staff.

The GHRA noted that protest actions on the roof of the central prison increased significantly during the year; at one point in October six inmates were on the roof to protest lengthy delays in trials (see Sections 1.d and 1.e.).

Conditions were generally adequate in the only women's prison, which is at New Amsterdam, in a facility that holds men and women in separate dormitory-type buildings. There are a number of vocational and educational courses, and regular visits by a psychiatrist who provides counseling were started for female inmates. The GHRA has urged that female inmates' responsibility for children should be recognized in terms of length of sentence and facilities for family contact. The East La Penitence police jail, where female prisoners are held until sentencing, was upgraded during the year; sanitation improved, and there is piped water for the inmates. Construction has not begun yet on the new women's detention center at East La Penitence.

Following widespread criticism caused by the detention in 1999 of two boys (ages 8 and 11) with adult prisoners who mistreated them, police have been careful to place juvenile offenders in a separate facility, in which conditions are adequate. In December 1999, police moved imprisoned juveniles from Brickdam to the Kitty police lockup, but conditions were so poor there that they were moved to the Ruimveldt police station. This station became the only facility holding juveniles, whose ages range between 14 and 17 years.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities. The GHRA participates as a member of the prisons' visiting committee, which investigates prisoner complaints, inspects diets, reviews primary medical care services, and provides recommendations to prison authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Bail is generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and must remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remains a problem. The GHRA has asserted that prisoners often are detained for 3 or 4 years while awaiting trial; however, the authorities denied that delays were this long. During the year, prisoners protested lengthy trial delays (see Section 1.c.)

The Constitution prohibits forced exile, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, law enforcement officials and prominent lawyers questioned the independence of the judiciary and accused the Government of intervening in certain criminal and civil cases. There are no institutional checks on the President or the ruling party when they seek to influence judges. However, the Government generally respects the independence of the judiciary in human rights cases.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates are members of the civil service and are trained lawyers. The magistrate courts deal with both criminal and civil matters. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecution 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 is respected in practice.

Delays in judicial proceedings are 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. The inefficiency of the judicial system undermines due process. Lengthy pretrial detention remains a problem (see Section 1.d.). In March the U.N. Human Rights Committee called on the Government to recruit competent part-time and temporary judges in order to deal with the backlog of cases. In September four additional judges were sworn in.

Defendants are granted public trials, and appeals may be made to higher courts. Appeals of some murder cases may go on for several years. Trial postponements are 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 have had only a limited effect, and judicial staff still need further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of capital crimes, it has been limited to those who can afford to pay. There is no public defender system.

The Georgetown Legal Aid Clinic, with public and private support, provides advice to persons who cannot afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases in such matters (for example, assault as part of a divorce case). Defendants in murder cases who need a lawyer are assigned an attorney by the court. The Guyana Association of Women Lawyers provides 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 these rights; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were numerous reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking is a problem.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Citizens openly criticize the Government and its policies.

The independent Stabroek News publishes daily, and a wide range of religious groups, political parties, and journalists publish a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covers a broad spectrum of political and nongovernmental groups. However, throughout the year the Chronicle typically displayed a clear antiopposition bias.

While printed media flourished, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owns and operates the country's sole radio station, which broadcasts on three frequencies. There are no private radio stations, and private interests continued to allege that the Government either denied or failed to respond to more than 20 requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 12 independent television stations in addition to the government station.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right. The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that it may provoke a breach of the peace. In cases of refusal, applicants can appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally is granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

The Constitution provides for freedom of association, and the Government generally respects this right.

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

*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 respects 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 travel throughout these areas without regard to the formality of a permit. Citizens are free to travel abroad, to emigrate, and to return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government does not have a formal policy on refugees or asylum and has not enacted model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise.

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

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

Citizens enjoy this right and exercised it in free and fair elections held in December 1997. There is a multiparty political system based on proportional representation. Voters indirectly elect the President to a 5-year term of office. Any citizen 18 years or older can register to vote.

The party that wins the most votes for parliament wins the presidency. A party's presidential candidate must be announced in advance of the election. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. Citizens are free to join or support political parties of their choice. Since Parliament always is controlled by the party in power, the legislature typically provides only a limited check on the executive's power.

In December 1997, citizens voted to return the PPP and its Civic partner to office and elected Janet Jagan, widow of former president Cheddi Jagan, as President, defeating the People's National Congress (PNC), which is the main opposition party. As a result of opposition charges of election fraud that international observers considered unfounded, the ruling party entered into an agreement brokered by officials from other CARICOM nations to hold new elections after 3 years instead of 5 years as required by the Constitution. In October 1998, a court began hearing testimony in a civil suit filed by the PNC in support of its allegation that the 1997 election was rigged; however, by year's end, no verdict was reached.

In 1999 Finance Minister Bharrat Jagdeo succeeded to the presidency following the resignation of Janet Jagan due to health reasons. The CARICOM-brokered agreement also called for constitutional reform of the electoral process, and Parliament began to debate changes to the 1980 Constitution, but reaching agreement on proposed revisions is a lengthy process. In December Parliament passed a Constitutional Amendment Act that imposes a 7-year residence requirement on candidates for the presidency and sets a limit of two terms. In addition the act removed a clause that made the President immune from prosecution, and it limits the number of nonelected ministers to four. Additional constitutional amendments are expected following the next general elections, which are scheduled to be held in March 2001.

Guyana is a racially divided society in which the political party structure polarizes the main ethnic groups. Winner-take-all elections exacerbate these tensions. The two major parties (the PPP and the PNC) are formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There are no legal impediments to the participation of women or minorities in the political process, but women and minorities are underrepresented in decision-making, government, and politics. The 20-person Cabinet includes 2 women, and the

country's second-highest judge is a woman. The 65-member Parliament includes 12 women and 10 Amerindians, representing both major parties.

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

The Guyana Human Rights Association, the most active local human rights group, functioned without government interference. The GHRA is an NGO formed in 1979 with the participation of trade unions, professional organizations, various ethnic groups, and churches. It issues periodic press releases and normally publishes an annual report on human rights. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports. The authorities did not interfere with the activities of human rights groups. The new draft constitution provides for the creation of a human rights commission to investigate abuses and to promote respect for human rights. An Amnesty International delegation visited in February and met with senior government officials.

In 1999 the Government presented its first report since 1981 on the country's human rights situation to the U.N. Human Rights Committee, as required by the International Covenant on Civil and Political Rights (ICCPR), of which it is a signatory. However, the Government's report, which was due in 1987, only covered the human rights situation between 1982 and 1987. In March the Government participated in 2 sessions with the committee, which then made 22 recommendations on a wide range of human rights issues (see Sections 1.a. and 1.e.). In 1999 the Government withdrew from the Optional Protocol to the ICCPR, which had permitted death row prisoners to appeal their cases to the U.N. Human Rights Committee. The withdrawal was in response to the Committee's 1996 ruling in favor of two convicted murderers who were to be hanged in 1997.

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

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin. However, the Government does not always enforce these provisions effectively.

*Women.*—Violence against women, including domestic violence, is widespread. Rape, particularly of girls and young women, is a serious problem but infrequently reported or prosecuted. Health professionals and NGO's reported a high incidence of incest. Lawyers say that while more victims are reporting these crimes to the authorities, there is still a social stigma applied to the victim for doing so. Despite efforts by NGO's and the Department of Public Prosecutions to sensitize police officers to domestic violence, the police are often hesitant to interfere in cases of domestic disputes. According to press reports, there were 17 deaths as a result of domestic violence between January and October 16; the actual number was likely to be higher.

In 1996 Parliament passed the Domestic Violence Act. In addition to defining domestic violence and establishing it as a crime, the law gives women the right to seek prompt protection. Magistrates can 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 Domestic Violence Act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibit abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders are violated, the abuser can be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months. However, this legislation frequently has not been enforced. Occupation orders allow the victim and any children to remain at a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders require an abuser to leave a rented dwelling and continue to pay some or all of the rent. Although local NGO's that address the issue of domestic violence are relatively new, they work effectively together under tight budget constraints. While NGO's consider the Domestic Violence Act as a positive step, they claim that it has had little effect on the overall situation of domestic violence in society. NGO's report that domestic violence crosses racial and socioeconomic lines.

In March the U.N. Human Rights Committee criticized the lack of information about the effect of the Domestic Violence Act in reducing the level of violence against women. The Committee called for training of police and other law enforcement personnel in the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced. By year's end, the Government had not taken any action in response to the U.N. recommendations.

Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, focuses on societal reeducation in order to sensitize the public to domestic violence. By mid-1999, H&S had counseled 1,768 persons since it began offering counseling services in November 1995. H&S reported that 68 percent of its cases involved spousal abuse and 7 percent involved child abuse. Another 10 percent of cases reported to H&S were rape cases; the vast majority of these—78 percent—were reported by victims age 16 and under.

The 1997 Antidiscrimination Act builds upon the provisions of the 1990 Equal Rights Act. The two laws provide a strengthened framework under which women and minorities may seek redress for discriminatory acts or practices. However, no case has ever been tried under the Equal Rights Act, and critics of the Antidiscrimination Act claim that it is unlikely to be effective since the act places enforcement responsibilities on the overburdened Chief Labor Officer.

There is no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds does not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitors the legal rights of women. The Women's Leadership Institute was established by law in December 1997 and opened in February 1999. The center seeks, through education and training, to facilitate greater women's participation in government and the private sector. The center plans to train an average of 350 women annually on issues such as women's rights, status of women, violence against women, and leadership development.

A 1990 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 remains 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.

The new draft constitution provides for a minimum number of women to be on party slates for parliamentary seats and creates a women and gender equality commission to promote the enhancement of the status of women, girls, and gender issues.

*Children.*—At least half of the population lives in poverty, and children are affected more severely than any other group. One-third of the population is under 18 years of age and, although the Government provides free education through secondary school, the severe deterioration of the public education and health care systems has limited children's future prospects. The public health system is inadequate, and private health care is unaffordable for many children. Children often do not attend school because their families need them to contribute to the household by working or providing child care for siblings or younger relatives.

Concern continues to rise over the effects of domestic violence on children. It is unclear how many deaths from child abuse take place, since law enforcement officials believe that the vast majority of criminal child abuse cases went unreported. The GHRA is concerned that there are no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the 400 children under the age of 5 who die each year, deaths that usually are ascribed to malnutrition or disease. Media reports of rape and incest further indicated that violence against children is a significant problem. According to UNICEF, a disturbing aspect is the concept of the "girl child," in which teenage girls trade sexual favors for money, a practice condoned by their parents yet obscured by cultural norms. In a related practice, parents demand monetary compensation following the rape of a teenage daughter.

The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child. However, there is a lack of social services or trained experts to deal with children fleeing sexual, physical, or emotional abuse. Many children suffer from neglect or abandonment, particularly when 3 percent of the adult population emigrates each year, often leaving children behind.

The new draft constitution provides for the creation of a commission on the rights of the child to promote the well-being of children. This commission would monitor compliance and make recommendations for compliance with the U.N. Convention on the Rights of the Child and other international instruments acceded to by the Government. It also would review legislation affecting children and investigate complaints relating to children's rights.

*People with Disabilities.*—There is no law mandating provision of access for disabled persons, and the lack of appropriate infrastructure to provide access to both public and private facilities makes it very difficult to employ the disabled outside their homes. In 1997 Parliament passed a law establishing a council for persons with disabilities; however, the council has yet to begin its activities. There are sev-

eral special schools and training centers for the disabled, but they lack trained staff and are in disrepair.

*Indigenous People.*—The Amerindian population, which consists of nine tribal groups, constitutes an estimated 8 percent of the population. Most live in reservations and villages in remote parts of the interior. Their standard of living is 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 is limited.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what is an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian can accept formal employment; however, these provisions are not enforced. Both Amerindian individuals and groups remain free to criticize the Government. In 1998 the Ministry of Amerindian Affairs admitted that the Amerindian Act was antiquated and expressed a commitment to update it, although it has taken no action to do so.

The Government has long maintained that it is committed to demarcating lands that traditionally have been the home of Amerindians. However, the Government holds title to almost all the country's land and is free to act as it wishes without consultation. The Government identified a total of 75 villages, and reported that it successfully demarcated the lands of 11 Amerindian communities in 1998. The Ministry of Amerindian Affairs claimed that, in close consultation with Amerindian leaders, it would demarcate a total of 40 additional villages by the end of 1999; however, while a handful of village leaders have accepted these new titles, most leaders rejected the demarcations. Local Amerindian NGO's regarded government consultations as mere public relations exercises and demarcation as a means of confining Amerindian communities so that the rest of what Amerindians considered to be their land could be offered as concessions to miners and loggers. (Most of the titles to demarcated land were granted decades ago under the Amerindian Act and did not allow for the growth of Amerindian communities.) The Amerindian NGO's claimed that Amerindian leaders were not consulted properly and were pressured into uninformed decisions. The Government maintained that it would consider granting additional land rights to those communities that agreed to have their lands demarcated in 1999, but it has not yet taken action to do so.

In March the U.N. Human Rights Committee expressed regret that the Government had not yet amended the Amerindian Act and expressed concern that Amerindians did not enjoy fully the right to equality before the law. The Committee was especially concerned that the right of Amerindians to enjoy their own culture was threatened by logging, mining, and delays in the demarcation of their traditional lands, and that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities.

The new draft constitution provides for the creation of a commission on indigenous people to promote and protect the rights of the Amerindian community. Among the duties of the commission is to make recommendations for the protection, preservation and promulgation of the cultural heritage and language of indigenous people. In addition the commission is to promote the empowerment of indigenous people through local government institutions including village councils and the Council of Toushaos (community elders).

*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 and ethnic grouping of social and political organizations has polarized society along ethnic lines, and discrimination and exclusion continue to occur. Members of both the largely Indo-Guyanese PPP and the largely Afro-Guyanese PNC engaged in rhetorical and propaganda attacks that fueled racial tensions. In August Parliament passed legislation creating an ethnic relations commission in an effort to reduce tensions, and in December it approved implementing legislation for the commission.

The civil service and defense and police forces are overwhelmingly staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. However, in the aftermath of the 1997 election, the Government increased its efforts to recruit Indo-Guyanese for the security forces. The Government sponsored various forums for discussion of racial problems and to promote inclusion. It supported the work of NGO's that deal with these concerns.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, was passed in late 1997 and came into effect in 1999, but was not effective in practice. The Trade Unions Recognition Board did not grant recognition to any new unions; it issued recommendations to recertify existing unions that previously had represented workers, but the process was not completed by year's end.

Approximately 34 percent of the work force is unionized. Most union members work in the public sector and in state-owned enterprises. Organized labor freely associates in one major national federation, the Guyana Trades Union Congress (TUC), which is composed of 22 unions. There is 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. For example, the Public Service Union organized a strike of customs employees in November 1998, with explicit political support from the opposition PNC. In 1999 all opposition parliamentary parties supported the public service workers' strike.

Workers have a generally recognized right to strike. Strikes can 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.

In May workers at the Forestry Commission went on strike. They were attempting to obtain recognition of their union, but 10 union branch chiefs were dismissed and had not been paid the severance package due to them.

In 1999 following a civil service strike, an arbitration panel awarded government workers an across-the-board 31 percent pay increase for 1999, an additional 26 percent increase in 2000, and step increases. While the Government has paid the annual increases, it has not yet agreed to implement step increases. There is no law prohibiting retaliation against strikers or antiunion discrimination by employers. However, this principle always is 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, are enforceable legally.

Unions and their federations freely maintain relations with recognized international trade union and professional groups. All three of the major international trade union federations have affiliates in the country.

*b. The Right to Organize and Bargain Collectively.*—Public and private sector employees possess and utilize the right to organize and to bargain collectively. The Ministry of Labor certifies all collective bargaining agreements and has never refused to do so. However, until enactment of the 1997 recognition law, this right was not codified, and employers legally were not required to recognize unions or to bargain with them. Individual unions directly negotiate collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the GTUC. Unions are dissatisfied with a provision granting 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.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there is no indication that it occurs. The Government prohibits forced or bonded labor by children and enforces this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children. 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 are employed. However, it is common to see very young children engaged in street trading in the capital. While cognizant of the situation, the Ministry of Labor does not employ sufficient inspectors to enforce existing laws effectively. According to UNICEF, child labor in the informal sector is a problem, as is the practice of teenage girls trading sexual favors for money (see Section 5). The Government prohibits forced or bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

*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. However, there is no legislated private sector minimum wage. As a result of the civil service arbitration ruling in 1999 (see Section 6.a.), the minimum public sector wage increased to \$104 (G\$19,000) per month. Although enforcement mechanisms exist, it is difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often are paid less than what is required legally. The legal minimum wage for the public sector is 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 requires payment of an overtime rate. However, if the initial contract stipulates a 48-hour workweek, then the overtime rate applies only for hours worked in excess of 48 hours. The law does not require at least a 24-hour rest period each week.

The Factories Act also establishes workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers cannot remove themselves from dangerous work situations without jeopardizing continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically prohibit trafficking in persons, and there were occasional reports of trafficking in persons of Chinese and South Asian origin, who would immigrate illegally to the United States under conditions amounting to debt bondage. Persons providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence. Some fraud cases were prosecuted during the year.

## HAITI

Haiti is a republic with an elected president and a bicameral legislature; although the 1987 Constitution remained in force, the failure to hold legislative elections left the country without a functioning legislature for over 3 years. The terms of office of the House of Deputies and most of the Senate expired on January 11, 1999; however, elections were not held until May 21, 2000. Parliament was not in session during that period. President Rene Preval, Prime Minister Jacques Edouard Alexis, and a cabinet governed during the year. The Provisional Electoral Council (CEP), formed in March 1999, delayed the local and parliamentary elections five times. After first-round elections were held in May, the CEP adopted a methodology that gave outright victory to candidates from the ruling Fanmi Lavalas (FL) party. Opposition parties and the international community objected to the CEP's method for tabulating votes and refused to recognize the new Parliament, which was sworn in on August 28. After CEP president Leon Manus refused to certify the results, he received death threats and subsequently fled the country. Two other CEP members also resigned in protest over the tabulation method. In a highly controversial move, President Preval replaced the three CEP members with FL loyalists on July 2. This now controversial CEP, whose mandate was expanded in August to include presidential elections, held presidential elections on November 26. Opposition parties refused to participate and the international community refused to support or certify the presidential elections because the controversy over the May 21 elections was not resolved. The opposition demanded the formation of a new CEP, resolution of the May 21 elections disputes, and security guarantees for future elections. On November 30, the CEP announced that Jean-Bertrand Aristide had won 91.5 percent of the vote in the November 26 presidential elections and proclaimed him the winner. However, controversy continued over voter turnout claims. The CEP announced a nationwide voter turnout rate of 60.5 percent. Other observers, including the opposition and local and international media, estimated voter turnout between 5 percent and 20 percent. The judiciary is theoretically independent; however, it is not independent in practice and remained largely weak and corrupt, and there were allegations that the executive branch interfered in politically sensitive cases.

In September 1994, a U.N.-sanctioned multinational force restored the country's democratically elected president. The Armed Forces of Haiti (FAd'H) subsequently were disbanded. At that time, the Government established the Haitian National Police (HNP). Despite substantive international assistance and some notable progress, the HNP remains a fledgling institution with inadequate resources. It still grapples with corruption; the presence of human rights abusers within its ranks and attrition

are serious problems. Allegations of corruption, incompetence, and narcotics trafficking are leveled against members at all levels of the force, which now numbers between 3,000 and 3,500 officers for a population well in excess of 8 million. The HNP has a variety of specialized units, including a crisis response unit (SWAT), a crowd control unit (CIMO) serving Port-au-Prince and the Western department, crowd control units (UDMO's) serving each of the remaining eight departments, a presidential and security unit, a small Coast Guard unit, and a Special Investigative Unit (SIU), formed to investigate high-profile political killings. The SIU is no longer ill-equipped and inexperienced; however, it lacks a mandate from the country's political leaders. It is making progress on some cases. Some members of local government councils (CASEC's) exercise arrest authority without legal sanction. Members of the HNP and other security forces continued to commit serious human rights abuses, although less so than in 1999.

Both the mandates of the U.N. Police Mission in Haiti (MIPONUH) and of the U.N./Organization of American States (OAS) International Civilian Mission in Haiti (MICIVIH) have expired. The International Civilian Mission for Support in Haiti (MICAHI) began operations in March with a limited mandate, largely dedicated to technical training. Its mandate is scheduled to expire on February 6, 2001. The departure of MICIVIH removed an objective monitor of the HNP, thereby making the compilation of human rights abuse statistics very difficult.

Haiti is an extremely poor country, with a per capita income of around \$400. This figure probably does not fully include significant remittances from the over 1 million Haitians living abroad, as well as income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling utilities. Aside from the sale of two previously closed enterprises, the privatization of state-owned enterprises has come to a halt. A small elite controls much of the country's wealth. Accurate employment statistics are unavailable. About two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force (approximately 20,000 persons) works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are sources of limited export revenue and employment. Other important exports are mangoes and coffee. The country is heavily dependent on international assistance, especially remittances from expatriates. It imports basic foodstuffs, including rice and sugar. The economic situation worsened perceptibly during the year. Political instability, deficit financing, depreciation of the gourde, and the world fuel price increase contributed to the country's severe economic problems. Episodes of sharp gourde depreciation in September–October, combined with a fuel price increase, resulted in high costs for import-dependent business enterprises, prices for food and consumer goods remained high at year's end. The International Monetary Fund estimated the increase in inflation from 1999 in October at 18 percent.

The Government's human rights record was generally poor, and its overall effort to respect the human rights of its citizens was marred by serious abuses and shortcomings in oversight. Contrary to the previous year, there were no credible allegations of extrajudicial killing or disappearance. There were several politically motivated killings during the year. The HNP continued to beat, torture, and otherwise mistreat detainees. Methodical investigations by the HNP are rare, and impunity remains a problem. Very poor prison conditions, arbitrary arrest and detention, and prolonged pretrial detention continue to be problems. Many criminal deportees who already served full sentences overseas are put back in jail for indefinite periods of time. The judiciary remained understaffed and underfunded; judges are corrupt and untrained. Judicial dockets are clogged, and fair and expeditious trials are the exception rather than the rule. The judiciary is not independent in practice; however, the completion of the Carrefour-Feuilles and Raboteau trials were signs of improvement. Security forces carried out illegal warrantless searches. Popular organization militants and members of the HNP increased their harassment of political parties, especially the opposition, during and after the May legislative elections. Opposition candidates were arrested, beaten, shot, and sometimes killed. Some opposition party offices were burned or otherwise destroyed. Most media practice some form of self-censorship, although they are frequently critical of the Government. Violence and societal discrimination against women, and government neglect and abuse of children remain problems. Some government leaders directed their rhetoric against the mulatto segment of society. The practice of rural families sending young children to the larger cities to work as unpaid domestics (restaveks) is still a problem. Child labor persists. Vigilante activity, including killings, remained a common alternative to formal judicial processes.

The Government made some progress in fighting police impunity and in addressing the legacy of human rights abuse from the 1991–94 period. On September 29, the trial of former soldiers involved in the 1994 Raboteau massacre began. On November 10, the court found 16 of the 22 defendants guilty and acquitted 6. The judge sentenced 12 to life imprisonment with hard labor and 4 others to between 4 and 9 years' imprisonment. On September 11, a jury found 4 police officers, including former police chief Jean Coles Rameau, guilty for their role in the murder of 11 civilians in the Carrefour-Feuilles section of Port-au-Prince on May 28, 1999. The judge sentenced the defendants to 3 years' imprisonment each.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no credible reports of extrajudicial killings by members of the HNP; however, it is very difficult to obtain reliable statistics in this regard because the mandate of MICIVIH has expired. Its successor, the International Civilian Mission for Support in Haiti (MICAHA), has a much more limited mission that does not include compiling statistics on human rights abuses. However, there were political killings during the year.

On January 11, a crowd chased HNP and U.N. CIVPOL officers into the Fort Liberte Commissariat after police rescued one of two thieves caught by the local populace seeking to lynch them. The second thief was beheaded. One 14-year-old was shot and subsequently died. The source of the bullet is unknown.

There were politically motivated killings during the year. On March 27, unknown persons killed Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Following discovery of his body, the crowd lynched one individual suspected of involvement in the killing; five others were wounded in the confrontation. Samedi's murder led to further street violence later in the week, during which two persons were killed and at least three others, including a police officer, were wounded. On March 28, Legitime Annis, a local opposition party coordinator, and his wife were murdered at their home in Petit-Goave. On March 29, Ferdinand Dorvil, campaign manager for an opposition Senate candidate from Grand Riviere du Nord, was dragged from his home, shot, and killed. On April 10, Merilus Deus, opposition candidate in Savanette, was murdered, and his daughter was injured. The HNP investigated these murders as politically motivated incidents.

On April 3, unknown gunmen shot popular radio host and director general of Radio Inter Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders (see Section 2.a.). For weeks before the attack, Radio Inter employees had received threatening phone calls. On April 8, following Dominique's funeral, a gang of approximately 25 persons burned the office of the KID party to the ground while police watched. The HNP is treating the case as a politically motivated killing. The investigation was still open at year's end. Two arrests were made in this case; one man was released while the other, a former policeman, was still in custody at year's end. In September Jean-Senat Fleury, a respected judge known for his impartiality, was removed by the Minister of Justice from investigating the case. The grounds for his removal were unclear. In November the Minister named a new prosecutor, Claduy Gassant, who began calling witnesses, including high ranking HNP officials and FL politicians.

On May 12, Branor Simon, the campaign coordinator for a local opposition candidate in Grand'Anse department, was shot and killed. His murder credibly is believed to be politically motivated. On May 21, two election-related deaths were reported in Croix de Bouquets, a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. Police were cooperating with the investigation at year's end.

On September 6, men wearing police uniforms abducted, tortured and killed Amos Jeannot, an employee of a local nongovernmental organization (NGO) called Fonkoze (see Section 4).

Two prominent killings in 1999 remain unresolved. No arrests have been made in the October 1999 killing of Jean Lamy, an unofficial advisor to the HNP and longtime political ally of President Jean-Bertrand Aristide or in the March 1999 killing of opposition Senator Yvon Toussaint.

On September 11, a court found 4 of 6 police officers guilty for their role in the summary execution of 11 civilians in the Port-au-Prince suburb of Carrefour-Feuilles on May 28, 1999. The judge sentenced each to 3 years' imprisonment.

On September 29, 22 former members of the military went on trial for taking part in the 1994 Raboteau massacre. On November 11, the jury found 16 of the defendants guilty. The judge sentenced 12 defendants to life imprisonment with hard labor and 4 others to between 4 and 9 years imprisonment.

In 1995 Claudette Gourdet Saint Albin was convicted in absentia of the September 1993 murder of Antoine Izmary. When in April the SIU attempted to arrest her, the judicial police presented a 1998 document acquitting her. There has been no further movement on the Gourdet/Izmary case.

The Government has focused its efforts on investigations into political killings that happened before the 1994 return of Jean-Bertrand Aristide, e.g. Raboteau, Cite Soleil. Little progress has been made in the investigations of political killings after 1994, with the exception of the Carrefour-Feuilles trial. Judges assigned to politically sensitive cases complained about interference by the executive branch of the Government.

There was little movement on the investigation into the 1993 massacre of residents of Cite Soleil, a Port-au-Prince slum, by members of the FAd'H and its allied paramilitary group, Revolutionary Front for the Advancement and Progress of Haiti. In November 1999, 23 arrest warrants were issued; however, soon afterwards, Minister of Justice LeBlanc terminated the employment of the judge on grounds of corruption, leaving the 4-year-old case without a judge with institutional knowledge of the case. By year's end, no arrests had been made; however, a new judge was appointed in the late summer.

Extrajudicial killings often take the form of vigilante actions. In general, such incidents occurred without official complicity, especially in rural areas where there is little or no police presence, the populace routinely resorts to vigilante actions in the absence of reliable means of legal redress. In November the Prime Minister called for the reappearance of vigilante brigades, and several began to operate. Angry mobs often kill suspected thieves, bandits, murderers, rapists, and sorcerers, usually by assault with machetes, stoning, beating, or burning. The HNP tried to prevent instances of vigilante justice in at least two cases in Port-au-Prince.

On March 30, a mob attacked and severely injured a murder suspect in Port-au-Prince who had just been arrested by the HNP. The suspect was in police custody when he was attacked. The HNP did not provide adequate security but instead drove the suspect through downtown Port-au-Prince in the back of a pick-up truck, despite a large crowd which had formed.

In March Amnesty International (AI) released a public statement expressing concern about reports of politically motivated violent street demonstrations by individuals said to be calling for, among other demands, the resignation of the Provisional Electoral Council. On March 27 and 28, demonstrators, some of whom claimed ties to the Fanmi Lavalas party, set fire to tires at barricades around Port-au-Prince. The central market was burned. A police officer in civilian clothes was shot twice at close range. Local television broadcast a report that a 9-year-old child had been shot and killed in the protests. Local police response was sporadic and limited; at least six persons were killed and many wounded. On March 29, Constitution Day, the violence continued in and around Port-au-Prince. FL supporters threatened Espace de Concertation party marchers. An opposition party organizer Legitime Adis and his wife were shot in their Petit Goave home.

Prison administrators and international human rights observers report a high number of deaths in prison (see Section 1.c.).

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

On April 27, Claudy Myrthil, the Espace de Concertation candidate for the post of Delegee de Ville in the Port-au-Prince neighborhood of Martissant was abducted from his home by unknown persons and held captive for 10 days. It is not clear whether his abduction was politically motivated.

In June 1999, recent skeletal human remains were found at Titanyen (near Croix des Missions), an area that often had served as a dumping ground for bodies of victims of political killings during the Duvalier and military eras. The HNP's forensic unit removed the remains with the assistance of foreign experts. Preliminary findings link some of the remains with an April 1999 incident in which HNP officers allegedly arrested eight teenage associates of the gang leader, Hypolite Elysee, whom HNP agents killed in April. Despite the efforts of their families to find them at police stations, prisons, and the morgue the youths were not located. The HNP opened an investigation into the case in June; at year's end the investigation remained open.

c. *Torture or 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 continue to violate these provisions. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and rarely were punished for such acts. Police frequently beat suspects. Torture and other forms of abuse are pervasive.

On July 6, members of the HNP questioned, beat, and tortured a journalist and businesswoman at her home for 2 hours (see Section 2.a.).

According to an opposition political party leader, on July 12, a police commando unit led by Mayor-elect Willo Joseph and local HNP Commissioner M. Jose rounded up and beat seven Espace leaders in Maissade. They were taken to neighboring Hinche where police authorities imprisoned them. The authorities stated that they were arrested for "setting houses on fire." One of the detained persons was dragged through the streets of Maissade by a rope attached to his neck.

According to Marc-Antoine Destin, president of the Confederation of Haitian Workers (CTH), on February 22, HNP officers led by Joanna Lunday, a local judge, kicked and beat a group of about 20 CTH officials at their headquarters in Petionville. Four CTH officials were arrested (see Section 6.a.). They were not charged with any crime, and were later released. The officers and judge have not been disciplined.

Police mistreatment of suspects at both the time of arrest and during detention remains pervasive in all parts of the country. Beating with fists, sticks, and belts is by far the most common form of abuse. However, international organizations documented other forms of mistreatment, such as burning with cigarettes, choking, hooding, and kalot marassa (severe boxing of the ears, which can result in eardrum damage). Those who reported such abuse often had visible injuries consistent with the alleged maltreatment. There were also isolated allegations of torture by electric shock. Mistreatment also takes the form of withholding medical treatment from injured jail inmates. Police almost never are prosecuted for the abuse of detainees.

There were isolated credible allegations of excessive force on the part of the CIMO and UDMO crowd control forces.

The Government's record of disciplining police officers implicated in these offenses is mixed. More often the HNP simply fires officers caught in flagrant abuses. The Government prosecuted six HNP officers during the year, and four received a sentence of 3 years in the Carrefour-Feuilles trial (see Section 1.a.). There are some HNP officers in prison for other offenses, although no exact figures were available at year's end. More than 800 officers have been removed since 1996. The lack of an Inspector General's office within the HNP significantly contributes to a problem with discipline.

There were sporadic instances of brutality on the part of local officials exercising unauthorized law enforcement functions. Especially in rural areas, brutality is perpetrated by members and agents of CASEC's (administrative councils of communal sections), who tend to assume illegally a law enforcement role in the absence of a regular police presence.

A Committee to Judge Jean Claude Duvalier lobbied the French Government for his return to the country. Early in the year, they filed a complaint in a French court asking for his return, but the court dismissed their motion. The group was in the process of appealing this decision at year's end.

Prison conditions remained very poor. The Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC), struggled to improve conditions in the country's prisons. Prisoners and detainees, held in overcrowded and inadequate facilities, continued to suffer from a lack of basic hygiene, poor quality health care, and 24-hour confinement to cells in some facilities. Several prisons experienced water shortages. As of August, the country's 19 prisons held 4,219 prisoners, an increase of about 350 persons compared with 1999.

The prison system continued to experience food shortages. Prison administrators and international human rights observers report a high number of deaths in prison. No official statistics are available; however, prison administrators report that in the month of November alone, at least 10 deaths were reported—5 attributable to malnutrition, 2 or 3 to AIDS, and the remainder to other causes. International human rights observers report that the number of deaths attributable to malnutrition rose significantly at year's end. Many prisons were only able to supply one (as opposed to the required two) meals a day to inmates. Most severely affected were inmates whose diet was not supplemented by food brought by family members. Even in those prisons where two meals were supplied, the food routinely lacked the minimum nutrients established by international standards; many prisoners were malnourished.

The ICRC manages a number of humanitarian programs to improve living conditions within the prison system. It pays for prescriptions not available in the prison pharmacies. On a quarterly basis, the ICRC distributes basic hygiene supplies to the prisons, including soap, bleach, brooms, mops, paper towels, and disinfectants. The ICRC also provides funding on an as needed basis to clear the prison septic tanks and renovate prison bathrooms, showers, and water pumps. The ICRC also donates

reading material, sewing machines, wood and other items to help prisoners pass the time.

The DAP is plagued by budgetary and management problems. The prison system still operates on the same budget as in 1995. Even when the administration manages to purchase enough food for all the prisoners, they experience difficulties in delivering the food to the 19 prisons. The prison administration does not have a delivery system, so it is up to the individual prison inspectors to go to the main warehouse and carry out as much food as they can fit in a taxi or local bus. The central warehouse also lacks a control mechanism to ensure that each prison is getting its fair share.

In the past, when the authorities received Haitian citizens deported from other countries for having committed crimes, they were processed in 1 week and then released. However, since March 24, criminal deportees who already have served sentences outside the country are kept in jail, with no timetable for their eventual release. Prosecutor August Brutus said that "preventive measures" are being taken to prevent the "bandits" from increasing the level of insecurity and crime in the country.

Health care services offered to inmates is improving slowly. However, most of the nurses do not receive adequate training. All receive a minimal 3-month training course before beginning work; however, of the system's 60 nurses, at most 5 have completed the 3-year course of instruction necessary to obtain full certification as registered nurses. In October 1999, a new Chief Physician was appointed. He instituted monthly meetings of all the prison healthcare professionals. Every prison has a dispensary, none have hospitals. Only the National Penitentiary has a nurse on duty 24 hours a day. The common sicknesses after malnutrition are skin problems, tuberculosis, and AIDS. In the capital, doctors are available; however this is not always the case in the provinces. The nurses do not conduct daily checkups on the physical condition of the prisoners; the prisoners must first ask and then receive permission to visit the nurse. The dispensaries have a limited supply of medication. If the needed medication is not available through the dispensary, family members must provide it, or in cases when there are no relatives, the ICRC provides funding for the medication on a routine basis in the capital and on a quarterly basis in the provinces.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from the men. However, overcrowding often prevents strict separation of juveniles from adults, convicts from those in pretrial detention, or violent from nonviolent prisoners. Many prisoners were held in police holding cells, particularly in the provinces. The National Penitentiary is the only prison originally constructed for use as a prison; all other prisons are former police holding cells.

International human rights observers and prison officials admit that there are instances of abuse by prison personnel against prisoners; however, no statistics were available at year's end. Prison officials report that prisoners did not file any official complaints against prison personnel during the year. However, they also admitted that they are aware that abuse occurs because they have heard oral reports from prisoners. However, the prisoners are afraid to file an official complaint because they fear that the abuse may worsen as a result.

The authorities freely permitted the ICRC, the Haitian Red Cross, MICAHA, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners with medical care, food, and legal aid. The Director General of the HNP cooperated with MICAHA and the ICRC.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a written order by a legally competent official such as a justice of the peace or magistrate has been issued. These orders cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local authorities lacking the authority to do so. In particular, arrests by mayors and members of local CASEC's occurred in underpoliced rural areas. Occasionally parents ask a judge to imprison a delinquent child.

On July 12, police beat and arrested seven leaders of the Espace de Concertation party (see Section 1.c.).

The requirement that a detainee be brought before a judge within 48 hours of his arrest was disregarded routinely in certain police jurisdictions, according to NGO's. Although the 48-hour rule is violated in all parts of the country, it is most often and flagrantly ignored in Jeremie, Cap Haitien, Petionville, and the Delmas com-

missariat of Port-au-Prince. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation."

In 1999 the international community was increasingly troubled by the authorities' tendency to detain persons in defiance of valid orders for their release issued by judges. MICIVIH expressed "extreme concern" at these cases, and described the authorities' actions as "completely arbitrary and illegal." Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by this practice. By August about half of those prisoners identified in 1999 had been released. By October prisoners still held despite valid release orders included Leoncefils Ceance, Esteve Conserve, Calero Vivas Fabien, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Georges Metayer, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi.

As in previous years, the dysfunctional judicial system resulted in pervasive prolonged pretrial detentions, with an estimated 80 percent of the country's prisoners awaiting trial and a third of them for more than one year (see Section 1.e.). The problem is most extreme in Port-au-Prince. A February 1999 compilation of statistics on these cases by MICIVIH showed that of 3,090 prisoners awaiting trial, 1,172 have been held for more than 1 year. Of these, 775 had been held between 1 and 2 years, 287 had been held between 2 and 3 years, and 110 had been held for more than 3 years. Sometimes the charges in these lengthy detentions are minor. Approximately 98 percent of the female and minors in prison are awaiting trial, indicating that the judicial system moves even more slowly for women and children (see Section 5).

In late 1999, Minister of Justice Leblanc announced that resolving the problem of prolonged pretrial detention was a high priority; he reorganized the Port-au-Prince prosecutor's office and attempted to implement a more rigorous schedule for hearings for correctional and criminal affairs. The Government had made little progress at year's end, as resolution of the problem required thorough judicial reform at all levels of the penal process: police, justices of the peace, prosecutors, investigating magistrates, trial judges, and prisons (see Section 1.e.).

In Cap-Haitien, the second largest city and largest city in the North, the judicial system has improved somewhat, although serious human rights violations occur on a routine basis. The Constitution prohibits police detention in excess of 48 hours; however, lengthy delays are routine. In some cases, detainees in police holding cells have been held for more than a month. Those accused of crimes and awaiting trial face lengthy delays in reaching trial. In many cases, pretrial detainees spend years awaiting trial. Human rights organizations note that the average wait before trial has increased from 3 to 4 years. Nevertheless, they report that beatings of prisoners have decreased in Cap-Haitien and active efforts are being made to decrease the lengths of pretrial confinement.

Police in some instances attacked journalists (see Section 2.a.).

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it is not independent in practice. Years of rampant corruption and governmental neglect have left the judicial system poorly organized and nearly moribund. The Constitution sets varying periods of tenure for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercises appointment and administrative oversight of the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well.

At the lowest level of the justice system, the 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. Appeals court judges hear cases referred from the first instance courts, and the Supreme Court deals with questions of procedure and constitutionality.

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 persons charged with a crime unless the suspect has legal counsel or a representative of his or her choice present or waives this right; however, this right was 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 legal aid, many interrogations without counsel occur. During actual trials, however, some defendants had access to counsel. Defendants enjoy 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, and the Government respects these rights in practice.

A shortage of adequately trained and qualified justices of the peace, judges and prosecutors, as well as underfunding, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date. Bail is available; however, it is entirely at the discretion of the investigative judge (*juge d'instruction*). Bail hearings are not automatic. The attorney for the defendant can make an application based upon a specific need, and the judge then decides if a conditional release is warranted. This usually is done only in minor cases when there is an overwhelming humanitarian reason, such as a need for medical attention. In some regions, there are not enough judges to hear cases, and judges lack basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence is sometimes lacking as well; some judges are illiterate. If an accused person ultimately is tried and found innocent, there is no redress against the Government for excessive time served in detention.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes and divides the authority for cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive files that are empty or are missing police reports. Autopsies are conducted only rarely, and autopsy reports are even more rare. The code provides for 2 criminal court sessions (*assizes*) per year in each of the 15 first-instance jurisdictions, each session generally lasting 2 weeks, to try all major crimes requiring a jury trial. During the year, the Port-au-Prince jurisdiction—by far the largest in terms of caseload—failed to adhere to this stipulation due to difficulties in assembling juries. The first criminal *assizes* since July 1998 occurred in Port-au-Prince in December 1999. The second was held almost 1 year later in September.

At least 3 classes of approximately 80 students have graduated from the Magistrates School. The school conducted seminars on human rights and judicial reform during the year.

There were no official reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted illegal warrantless searches. In the past there were reports that the police arrested family members of wanted persons when the suspects themselves could not be found.

*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 has in the past generally respected these rights; however, the Government's respect for the press deteriorated during the year. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, most media practice self-censorship, wary of offending sponsors or the politically influential. After the November 26 presidential elections, death threats proliferated against media figures who questioned the electoral process or outcomes. Although the threats were anonymous, the Government did nothing to counter them. Three radio stations were forced to stop temporarily news programming for brief periods in late November and December as a direct result of threats against the stations for their coverage of the elections.

There are two French-language newspapers in the country, *Le Nouvelliste* and *Le Matin*, with a combined circulation of less than 20,000 readers. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers are frequently critical of government policies.

The written press is beyond the reach of many citizens, due to language differences, illiteracy, and cost. The literacy rate is only about 20 percent, and broadcast media, especially Creole-language radio, have a preeminent importance. Although most radio stations and other forms of telecommunications are nominally independent, they are subject to a 1997 law that names the State as the sole owner and proprietor of all telecommunications media. Members of the press believe that the Government refuses to sign the Chapultepec Convention (on freedom of expression) because the Convention prohibits government monopolies of the media, which would be in direct violation of the 1977 law. The State leases the right to broadcast

to private enterprises but maintains the right to repossess the airwaves as it sees fit.

Over 200 private radio stations exist, including about 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited, as most persons cannot afford access to television. Broadcast media freely express a wide range of political viewpoints.

Credible reports indicate that the Government's inability or unwillingness to provide adequate security to media outlets and prominent members of the press has contributed to an increased sentiment of vulnerability among those members of the press who criticize the Government or Fanmi Lavalas.

According to employees of Radio Metropole, on February 11, Prime Minister Alex is publicly criticized the station for its coverage of rightwing leader Claude Raymond's death while in prison; however, none of the reported items were inaccurate.

On April 3, unknown persons killed radio commentator Jean Leopold Dominique and a security guard (see Section 1.a.).

On December 15 two youths killed sports broadcaster GERAL Denoze; the motive remained unknown at year's end.

Numerous anonymous death threats have been directed at journalists by name, including the entire news staff of Radio Vision 2000, which is known for its opposition to the Government. On April 5, Radio Vision 2000 journalists sent a signed letter to Justice Minister Camille Leblanc, in which they described "daily threats against their lives." They asked the Minister to ensure security for the radio staff and building. Following Jean Leopold Dominique's funeral on April 8, a group of at least 100 persons massed outside the station, threatening to attack it. The CIMO dispersed the crowd. A few days after Dominique's murder, Daly Valet, a Radio Vision 2000 journalist, went into hiding after receiving frequent and credible death threats. He fled the country. In June heavily armed, hooded men painted slogans on the wall of the station and threatened newsroom employees. In face of threats, Radio Galaxie suspended its news service the day after the November 26 elections. That same day Radio Vision 2000 joined Radio Galaxie in suspending its service following the receipt of threats. Radio Caraibes shut down its news service on December 23, after receiving threats to the station and personnel.

On April 4, hooded, armed men attacked the Radio Unite station in Artibonite province. They stole transmitters and destroyed much of the recording studios and electrical installations.

According to employees of Radio Echo 2000 in Petit Goave, on April 5, a group of armed men entered the station and threatened to burn the station down and kill the employees if they did not cease broadcasting. The police did not respond. In March a group of bandits beat one of the journalists, Elyse Sincere.

On April 17, presidential staff employee and information officer Guy Delva organized a march "to protest attacks against freedom of the press," coercing independent media to take part or else be stigmatized as antigovernment agitators. He also pressured news directors by telephone to cease broadcasting on April 17, lest they be branded as opponents of the event. Radio news sections sent representatives to the march in small numbers to avoid open defiance, but all refused to shut down their programming on April 17.

In May unknown persons destroyed radio and television stations in Petit-Goave.

In June a private radio station, Horizon PM, issued an open nationwide alert, noting that its editor and several of its employees had received anonymous verbal threats.

In August unknown persons hurled a fragmentation grenade at the National Television Building in Port-au-Prince. No one was injured.

On August 22, agents from TeleTimoun, the television station wholly owned by the FL, entered and offered the news staff quadrupled salaries, connected cell phones, and freedom from fear of future harassment to those Telemax employees who accepted the offer. All but one person accepted. The Telemax news service, previously the country's most objective and technically advanced, subsequently was staffed with Lavalas supporters and objective reporting ceased.

Foreign journalists generally circulated without hindrance from the authorities; however, in July police questioned, beat, and tortured a dual national journalist in her home (see Section 1.c.). The journalist identified the officers from a police lineup. The police commissioner who orchestrated the event was fired on other charges not related to this incident. At year's end, the Government had not apprehended, charged, or disciplined the officers, even though the victim had identified them.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities generally respect this right in practice. In general, a variety of organizations were able to exercise this right without hindrance throughout the year. For example, on September 18, about 6,000 members of the Papaye Peasants' Movement marched from the central plateau town of Papaye to Hinche in an anti-Lavalas demonstration. According to observers, the police played a passive role, except at one point intervening to separate the demonstrators from pro-Lavalas supporters, and there was no confrontation.

However, in several instances police inaction allowed organized political militants to violate the right of freedom of assembly in practice, and there were numerous violent political demonstrations (see Section 1.a.).

Olivier Nadal, former president of the Haitian Chamber of Commerce, reported to the press that he and his family had received death threats, and that they had fled the country. He also had been threatened with arrest. Nadal was the organizer of a May 1999 rally of entrepreneurs, which was broken up by a band of unknown persons while the police stood by and did not intervene.

A peaceful, well-publicized demonstration scheduled for August 29 in Cap Haitien by the opposition Convergence Group never took place. According to local press reports, the Convergence Group decided to avoid confrontation with members of the pro-Lavalas OP, who moved into the area of the Cap Haitien Cathedral chanting antiopposition slogans.

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

*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 respects this right in practice.

In many respects, Roman Catholicism retains its traditional primacy among the country's religions although Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church in numbers of members. Voodoo, a traditional religion derived in part from West African beliefs, is practiced alongside Christianity by a large segment of the population. While there are associations of voodoo practitioners and priests, there is no organized hierarchy or established voodoo church. Accusations of sorcery, particularly in rural areas, have been known to lead to mob violence resulting in deaths. Given the prevalence of voodoo in these areas, it appears likely that voodoo practitioners are targeted in some cases.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government respects the right of freedom of movement within the country, foreign travel, emigration, and repatriation.

An unknown number of undocumented migrants put to sea during the year seeking better economic opportunities in other countries. The Government operated, with international support, the National Migration Office (ONM) to assist citizens involuntarily repatriated from other countries, including the Dominican Republic and the Bahamas. That office stopped providing humanitarian services to involuntarily repatriated migrants in June, and in August it stopped meeting and processing the migrants. Although the ONM office still exists, it no longer provides any services to repatriated migrants but conducts training courses. According to the International Organization for Migration, the Dominican Republic deports approximately 500 Haitians each month across the Border. At the end of August, a mass repatriation of approximately 3,000 Haitian nationals took place. There were reliable reports of separation of families and maltreatment of Haitians by Dominican soldiers during this period, as had been the case in 1999.

The Government has no policy regarding foreign nationals seeking refuge or asylum from third countries. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for regular elections for local and parliamentary offices and for the presidency. Rene Preval, who was elected in 1995 in an election regarded by the international community as free and fair, continued in office during the year. On May 21, a first round of long overdue senatorial, legislative, and municipal elections to fill vacant posts took place after repeated postponements. The CEP manipulated the results by its choice of a methodology for calculating the percentages in determining senate seats, by the faulty transmission of results, and by the arbitrary treatment of challenges which had an impact on the results of several races. A continuing standoff through the rest of the year between the Government and opposition parties led to an opposition boycott of a second round of legislative

elections in July and of the November 26 elections for president and remaining Senate seats. Elections to replace President Preval took place as scheduled on November 26.

The country's constitutional crisis continued through the first half of the year. The crisis began with the flawed local and parliamentary elections of April 1997 and Prime Minister Rosny Smarth's subsequent resignation. A stalemate between the President and Parliament continued through January 11, 1999, when the terms of office of the entire 85-seat House of Deputies and of all but 9 of the 27 members of Senate expired. In March 1999, President Preval negotiated an agreement with a coalition of five small opposition parties to form a Provisional Electoral Council to organize the overdue local and parliamentary elections. After many delays, these were fixed for May 21, with a second round on July 9.

There were scattered acts of violence in the months leading up to the election, as well as several politically motivated killings during the year (see Section 1.a.). On March 11, supporters of the ruling Fanmi Lavalas' candidate for deputy in the Delmas region physically attacked Serge Auguste, an opposition candidate. On March 17, Marie Laurence Jocelyn Lassegue, an opposition candidate running for Senate, was shot and injured while campaigning. On March 20, two men shot and injured Marcel Fils, an opposition party coordinator, in downtown Port-au-Prince. On March 27, unknown persons killed progovernment Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Samedi's murder led to further street violence later in the week, during which two persons were killed and at least three others, including a police officer, were wounded (see Section 1.a.). The HNP investigated their murders as politically motivated incidents.

Opposition leaders reported that while they participated in a proconstitution march on March 29, seven hostile FL supporters attacked them, shouting "Aristide or death," and other threats. The attackers brandished pistols and threw stones and one Molotov cocktail.

AI reported that a group of armed men attacked members of an opposition party as they handed out pamphlets in Port-au-Prince on March 29. On April 3, noted journalist Jean Leopold Dominique and one of his guards were shot and killed (see Section 1.a.). On April 4, Merilus Deus, an opposition senatorial candidate in Savanette was murdered (see Section 1.a.); the deputy candidate went into hiding. On April 6, the Grand'Anse BED legal adviser reported that several individuals forced their way into his house, dragged out his personal property and burned it. There was no sign of the HNP during this incident. On April 8, a group of pro-FL militants attacked and burned the headquarters of an opposition party. The FL denied involvement despite several credible reports that its supporters were responsible for the attack. On April 9, two regional opposition offices in Achaie and Aquin were burned and destroyed. On April 19, an opposition candidate for local office in suburban Port-au-Prince allegedly was kidnaped, but reappeared unharmed on May 3.

On May 21, about 60 percent of the country's 4 million registered voters went to the polls to select from some 29,000 candidates for 11,000 local and national posts. International and domestic observers agreed that despite some scattered irregularities (polling booth intimidation, ballot stuffing, and publication of voting results before polling booths were closed), the elections were generally free and fair. Two election-related deaths were reported in a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. On May 22, the HNP arrested and charged Paul Denis, an opposition party leader and former senator, for possession of illegal weapons. He later was released amidst allegations the arrest was motivated politically.

While the initial voting was generally free and fair, serious irregularities in the counting of votes and the computation of winners in certain senate races compromised the election. A December report by the Organization of American States (OAS) concluded that the voting process began to deteriorate after the closing of the polls. For example, armed groups stole and burned ballot boxes in the departments of the Center, North, and Artibonite. The delivery of voting materials (ballots, ballot boxes, pens, ink, and voter registration lists) in Port-au-Prince and Cap Haitien was chaotic and a substantial number of these materials may have been lost. The election controversy became serious with the publication of the results of the Senate races. Under the Constitution and electoral law, a candidate must receive an absolute majority of votes cast in order to be elected in the first round of voting. If no candidate receives a majority, a second-round runoff is required. The Senate results published by the CEP announced that the ruling Fanmi Lavalas party won 16 of the 17 Senate seats in the first round. These results were based on what opposition parties and independent observers termed a flawed interpretation of both the Constitution and the electoral law. Officials only counted votes cast for the top four con-

tenders in each Senate race, yielding what both international and local observers said were false FL victories. Percentages of votes were calculated imprecisely, by using the total of votes received by the top four contenders rather than the total of votes for all candidates. There were 20 to 30 candidates for Senate in each department. CEP President Leon Manus and two other members (all representing opposition parties) refused to certify the irregular results and resigned their posts. A preliminary evaluation conducted by the OAS found that only 9 Senate seats should have been decided in the first round, while 10 should have gone to a second round. President Preval responded to the three CEP resignations by appointing replacement council members loyal to FL, who immediately certified the Senate results without addressing the controversial counting method.

The international community, local civic groups, and opposition parties called on the Government to address the controversy. The CEP ignored these protests and on July 9, held second-round races for deputies. There were no senatorial second-round contests. With an almost unanimous boycott by opposition parties and candidates, voter turnout for this round was significantly lower than in May, at reportedly only 5 percent. All international and most domestic observers refused to participate in monitoring the second round.

Domestic human rights and opposition parties continued to protest the election results. Following his resignation, CEP president Leon Manus fled the country after being threatened repeatedly. He then issued a statement that acknowledged that the methodology used in counting votes for the Senate was flawed. On June 15 and 16, bands of pro-FL militants shut down metropolitan Port-au-Prince with barricades and tire burnings to protest international refusal to certify the results. International missions led by the OAS unsuccessfully attempted to encourage resolution of the May 21 elections dispute.

Despite local and international calls not to seat the Parliament before resolution of the election controversy, on August 28, Parliament was sworn in formally.

Violence escalated, particularly in Port-au-Prince, during the days before the November 26 elections for President and for replacements for the remaining nine Senators whose terms would expire in January 2001. While some of the violence was attributable to the political situation, for which the FL accused the opposition of responsibility and vice-versa, common crime was undoubtedly the source of many episodes; however, the violence contributed to an overall climate of intimidation.

On the evening of November 2, in Hinche heavily armed members of FL attacked a meeting being held by opposition political party leader Chavannes Jean Baptiste and injured seven persons. A few days later, the mayor of Port St. Louis fired shots into a seminar being conducted by a respected opposition politician.

Shootings and robberies became an almost daily occurrence in Port-au-Prince. On November 3, unidentified persons opened fire on an evening rush hour crowd, killed at least five, and wounded several others. That same day three bodies were found in another location. On November 4 and 5, three more bodies were found in yet another site. Also on November 4, at least one person was killed and another gravely wounded during a confrontation between rival gangs at another street intersection. Ongoing confrontation between rival gangs in the Port-au-Prince slum of Cite Soleil during the month of November resulted in numerous injuries and property damage. In general, the HNP did not respond to the confrontations.

On November 14, a group of approximately 500 pro-FL demonstrators rallied peacefully in front of a foreign Embassy to protest international pressure on former-President Aristide to bring about a negotiated solution to the political stalemate that had developed over the May 21 elections. The same day, a drive-by shooting killed one person in front of the Le Nouvelliste newspaper offices in downtown Port-au-Prince. That evening, residents panicked as unidentified persons in a pick up truck drove through several neighborhoods shooting at persons (injuring a number of them) and ordering persons off the streets.

On November 15, a clearly marked U.N. vehicle was hit in a drive-by shooting in Gonaives. No one was injured.

On November 22, nine separate explosions occurred in crowded areas of Port-au-Prince; the explosions killed two children and left many other persons injured. On November 25, marching FL members in Petit Goave staged citizen's arrests of several opposition members and detained several others. Also on November 25, an attempt was made during the evening to burn the communal electoral office (BEC) in Ganthiere. Police intervened and were able to save the electoral materials, although the building was partially destroyed.

The international community and most opposition parties refused to help or take part in the November 26 presidential elections because of the unresolved controversy surrounding the May elections. Due to the lack of international observers,

the local press monitored the election process. Several radio stations were forced to close their news operations because of threats (see Section 2.a.).

The November 26 elections took place amidst heavy police security and were characterized by low turnout—accounts vary from the 5 percent to 20 percent. Aside from a pipe bomb that exploded in the Port-au-Prince suburb of Carrefour and the burning of ballots during the morning in the city of Anse d'Hainault, the elections generally passed without disturbance. With the opposition boycott, former President Jean-Bertrand Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast.

In the days following the November elections, pro and anti government violence occurred again in the department of Grand-Anse. In the cities of Anse d'Hainault, Cotetaux, and Petite Riviere de Nippes, protest and violence led to the deploying of HNP units from Port-au-Prince, and in the case of Nippes, the Coast Guard, to restore order. Throughout the rest of the country, calm generally prevailed.

There are no legal impediments to women's participation in politics or government; however, they are underrepresented, and the low status of women limits their participation. The Election Law provides that the monetary deposit required of female candidates for political office is one-half that required of male candidates, if a recognized party sponsors them. Three of the 82 deputies are women, and there are 6 women among the 27 senators.

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

Domestic and international human rights groups generally operate without government restrictions; however, threats and intimidation from unknown sources continued to increase during the year. Justice Minister Leblanc continued to seek dialog with some groups and solicited their recommendations on human rights issues such as police impunity and prosecution of police and former military suspected of committing human rights abuses. The number of groups that monitor human rights has grown, as has the scope of those groups; however, most monitoring groups are hampered by a lack of resources. Human rights organizations increasingly turn to issues that they have not addressed before, including prison conditions, the widespread lack of health facilities, and impunity for criminals.

Following the April 3 killing of Jean Leopold Dominique, members of the local human rights community, including the National Coalition for Haitian Rights (NCHR) and the Platform of Haitian Human Rights Organizations rallied in front of the Haiti Inter radio station. Self-described members of Fanmi Lavalas beat and shot at several participants. Riot police were on hand but did not protect the rally participants (see Sections 1.a. and 2.b.).

On September 6, men wearing police uniforms abducted, tortured, and killed Amos Jeannot, an employee of Fonkoze, a local NGO (see Section 1.a.). AI and local human rights organizations appealed to the HNP for a swift and thorough investigation. The investigation continued, but no arrests had been made by year's end.

There were no arrests or progress made in the investigation of the 1999 attempted murder of Pierre Esperance, NCHR country director. The HNP's investigation remains open but apparently inactive.

The difficult security climate remained unchanged. Organizations such as the NCHR, the Platform of Haitian Human Rights Organizations, the Human Rights Fund, and the Ecumenical Center for Human Rights reported receiving repeated threats, most of them anonymous.

The Office of the Protector of Citizens (OPC), an autonomous, ombudsman-like office provided for by the 1987 Constitution, was hampered by a cut in funds due to the Government's budget crisis. The OPC is one of the Government's four independent, autonomous institutions. Despite budgetary problems, the OPC conducted a number of seminars throughout the year, including over 20 seminars in schools, some in the Magistrates School, and others at the local and county levels of government. In February Dr. Louis Roy, the Director of the OPC, appointed Florence Elie to a 4-year term as Deputy Director. Dr. Roy was chosen as the Director by a commission of parliamentarians in conjunction with the President in 1995. However, his seven-year appointment only was ratified by Parliament in 1997.

The recently seated Parliament created a Justice and Human Rights Committee. The chairman of the committee said that his primary goal would be the improvement and reform of the judicial system. It is not clear whether the committee would also conduct human rights monitoring.

The mandate of MICIVIH expired on March 15. MICIVIH played a vital and successful role in monitoring the human rights situation and in promoting adherence to human rights norms by the authorities. The U. N. created a new entity, the International Civilian Mission for Support in Haiti (MICAH), after MICIVIH's mandate

expired. MICAH's mandate began in March and is scheduled to expire on February 6, 2001. This new entity is much smaller in size and scope than MICIVIH. MICAH's mandate is limited to training in human rights and to conducting civic education courses. It does not conduct human rights monitoring.

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

The 1987 Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there is no effective governmental mechanism to administer or enforce these provisions.

*Women.*—The law provides penalties for rape and domestic violence; however, the authorities do not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse out of fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported being victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law excuses a husband if he murders his wife or her lover upon catching them in the act of adultery in his home. A wife who kills her husband upon discovering him in the act of adultery is not excused. The National Commission of Truth and Justice, formed after the 1991–1994 period of military rule, recommended several improvements to existing laws concerning rape and abuse of women, but Parliament enacted none of the proposed changes. In January U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy released a report based on her June 1999 visit to the country. She noted, among other problems, that most women prisoners share living quarters with male prisoners, exposing them to violence and sexual abuse (see Section 1.c.). In 1998 a national coalition of women's organizations met with the Ministries of Health, Population, Social Affairs and Women's Issues. Three proposed changes to the law were submitted to Parliament; by year's end, Parliament had not voted on the proposals. There are no government-sponsored programs for victims of violence.

Sexual harassment of female workers is a problem, especially in the assembly sector (see Section 6.b.).

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 it has few resources at its disposal and was able to accomplish little in this regard.

The Constitution states that all citizens are equal before the law; however, women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. Peasant women, often the breadwinners for their families, remain largely in the traditional occupations of farming, marketing, and domestic labor. Very poor urban women, who head their families and serve as their economic support, also often find their employment opportunities limited to traditional roles in domestic labor and marketing. Laws governing child support recognize the widespread practice of multiple-father families but are rarely enforced. Female employees in private industry or service jobs, including government jobs, are seldom promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in recent years. Women's rights groups are small, localized, and receive little publicity.

*Children.*—The Government's programs do not promote or defend children's rights. Government health care and education programs for children are inadequate. Malnutrition is a problem. The Government has a school nutrition program administered through the Office of National Development, with food provided by foreign donors. The Constitution and the law provide that primary education be free and compulsory; however, in practice access to public schools is the primary obstacle to most rural families. Even in public schools there are nominal mandatory fees associated with sending a child to school (uniform, books, etc.), and these costs are beyond the means of many rural families. One study reported that schools are dilapidated and understaffed. An estimated 90 percent of schools are private, and the costs of school fees, books, materials, and uniforms are prohibitive for most families. According to the Government, 40 percent of children never attend school, and less than 15 percent of those who do graduate from secondary school. Poorer families sometimes ration education money to pay school fees for male children only. Several international and local NGOs work on children's issues.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called “restavek” (which means “lives with” in Creole); families of these children frequently received financial compensation (see Sections 6.a., 6.d., and 6.f.). Most local human rights groups do not report on the plight of restavek children as an abuse nor seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation.

Port-au-Prince’s large population of street children includes many restaveks who have been sent out of employers’ homes or who are runaways. There is some anecdotal information indicating that children are involved in prostitution or being trafficked.

The Ministry of Social Affairs is aware of the problem, provides some assistance to street children. In 1998–1999 (last available data), they assisted 887 children. The Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children’s rights by conducting awareness raising activities. According to COHADDE, children work primarily in domesticity (restavek), but some are found working on the street, and some are involved in prostitution.

*People with Disabilities.*—The Constitution provides that disabled persons shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for the disabled. Although they do not face overt mistreatment, given the severe poverty in which most citizens live, those with disabilities face a particularly harsh existence. Disabled beggars are a familiar sight on the streets of Port-au-Prince and other towns.

*National/Racial/Ethnic Minorities.*—Some 99 percent of Haitians are descendants, in whole or in part, of African slaves who won their 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. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian 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. During the year, various political figures, including the President, used rhetoric indirectly targeting the mulatto segment of society. Mulattos historically have been targets of sporadic attack in many cases because they are perceived to be wealthy.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by about 20 percent of the population, including the economic elite. The inability to communicate in French long has limited the political and economic opportunities available to the majority of the population. The Government prepares most documents only in French, and judges conduct most legal proceedings exclusively in French. However, Creole is used in parliamentary debate in the Lower House of Parliament.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for the right of association. An article of the 1987 Constitution, which supersedes the labor code, gives legal recognition to public sector employees. The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Social Affairs Ministry within 60 days of its formation in order to obtain legal recognition. The labor code does not require prior approval before any association is established. The Labor Code stipulates that “no labor union can be formed with less than 10 individuals.” Article 232 gives unions 60 days after formation to register with the Office of Personnel Management of the Ministry of Labor and Social Affairs.

Unions are independent of the Government and political parties. Nine principal labor federations represent about 5 percent of the total labor force of approximately 2,800,000 persons, including about 2 to 3 percent of labor in the industrial sector.

Teachers went on strike for several months in 1999 because they had been promised a 32 percent pay increase, later renounced by the Government. The Government denied that public school employees had a right to strike, suspended some teachers, and garnished the salaries of public school employees who participated in the strike. At year’s end, 19 teachers remained suspended. In October seven teachers, members of the CNEH, were reinstated. A total of 77 teachers were given financial penalties that amounted to the number of days they were on strike multiplied by 1/30 of their gross pay.

The labor code forbids strikes by public utility service workers. Article 209 of 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.” Managers, administrators, and other heads of establishments are not allowed to join labor unions and strike.

In August the Government issued rules governing the public school calendar for the 2000-01 academic year. The Ministry of National Education moved the opening date back about 3 weeks and reduced the number of holidays by 1 day, which added 1 month to the school year; teachers unions were not notified prior to the change nor given adequate opportunity to bargain prior to implementation. The unions criticized this unilateral change as an unfair labor practice and a violation of the contract they signed on June 28, 1999. In the wake of these confrontations, communication between the unions and the Government has been limited. Some unions hope to resurrect negotiations through mediators, while others expanded their lawsuit filed in 1999. While the school year started on schedule, less than 10 percent of students attended classes during the week of September 4. Approximately 15 percent of students did not return at all.

On May 15, about 300 technicians of the Government-owned telephone company (TELECO) went on a 1-day work stoppage to protest management’s slow response in addressing employees’ concerns regarding reductions of employee health insurance and pension benefits. TELECO management paid its arrears to the insurance fund, and promised to resume its contributions to the pension fund. However, it later dismissed four technicians in apparent retaliation.

On August 7, armed temporary employees walked into the TELECO headquarters and demanded the so-called 14th month salary, which is a bonus normally paid to full-time employees to pay for school fees. Temporary employees are normally not eligible. TELECO’s offices in the greater Port-au-Prince area remained closed for 2 days, and telephone service was reduced. The police took control of the TELECO building and its environs to restore order. The bonus was not paid. The protestors resumed normal activity after some were fired, and others threatened. Using this incident as a pretext, management suspended payment of the traditional 1-month bonus to full-time employees paid 1 month before the school opening date.

In August workers at several factories in the Shodecosa Industrial Zone protested the minimum wage that they received. More than 40 workers were fired, and the protest gradually ended.

On September 11, public transport unions went on strike to protest the Government’s decision to raise fuel prices. They ended their strike the following day. On October 3, public transport unions called for a general strike to protest the Government’s failure to open a dialog on new fuel prices. The strike was not successful; drivers and owners of public transportation vehicles did not participate.

On October 2, the union of the electric company workers conducted a one-day sit-in inside the Ministry of justice compound. The Ministry promised workers police protection from angry residents while they are on the job. The workers were satisfied and returned to work.

Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. The International Confederation of Free Trade Unions brought a complaint to the International Labor Organization (ILO) in September 1999, alleging that a utility company (Electricite d’Haiti) violated freedom of association in 1996 when it dismissed 30 leaders and more than 400 members of the Federation of Electricity Workers of Haiti, closed trade union offices by armed persons, and banned any meetings by trade union members in the company. Additional allegations in this case include the attempted murder of two trade union officials, and the arrests and assaults of other trade union leaders. The ILO had not received a response from the Government on these allegations by year’s end, and the case remained unresolved. According to the current union (FESTRED’H) leaders, the 1996 union leaders and workers were dismissed permanently. The Government orchestrated a reorganization of the union and allowed it to function under new leadership. The workers are not fighting actively for reinstatement. Some retired, some left the country, and the rest attempted to find employment in other sectors.

Labor unions reported at least one killing, and several arrests during the year. On September 4, Elison Merzilus, a member of the Autonomous Central of Haitian

Workers (CATH), was taken from his home by a group of 10 armed men. He lived in the 7th Section of the Gros-Morne Commune, in the Artibonite Department. His body was found 2 weeks later, in a ravine located in the 8th Section of the Gros-Morne Commune. Merzilus was instrumental in forming a women's organization affiliated with CATH several days before his disappearance. Around the same time, 10 other union members were informed that their names were blacklisted and spent several months in hiding.

On December 19, the authorities arrested Wilson Duverson and Rigaud St.-Juste in the commune of Anse-a-Foleur, Northwest Department. They were subjected to severe beatings and other harsh treatment. The authorities released Duverson on January 8 and released St. Juste on January 18. Both are members of the Anse-a-Foleur Workers Organization for Recovery (OTRA).

Several leaders of major Labor Confederation leaders were subjected to persistent telephone threats and were given ultimatums to rally behind the FL.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly sector. The high unemployment rate and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts. The ILO has criticized the law for its failure to include a specific provision envisaging protection against antiunion discrimination at the time of hiring.

Collective bargaining continued to be 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 is a problem in the assembly (maquiladora) sector. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also report that while the vast majority of assembly sector workers are female, virtually all the supervisors are men.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor for adults and minors; however, while such labor is not known to occur among adults, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

*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, where the minimum age is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also a legal provision for employment of children between the ages of 12 and 16 as “apprentices.” Fierce adult competition for jobs ensures that child labor is 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 on small family farms alongside their parents, even though the high unemployment rate among adults keeps children from being employed on commercial farms in significant numbers. In these as in many other areas, government agencies lack the resources to enforce the relevant laws and regulations effectively. The Labor Code prohibits forced or compulsory labor, which applies equally to minors; however, some children are forced to work as domestic servants (see Sections 5, 6.c. and 6.f.).

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*; families of these children frequently received financial compensation (see Sections 5 and 6.d.). A 1991 U.N. study cited this practice as an example of slavery in the 20th century. UNICEF estimated that 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice. According to a 1998 UNICEF study, the average *restavek* is between 11 and 14 years of age; however, more than 20 percent are between the ages 4 and 10, and more than 75 percent are girls. About 23 percent of these girls are raped by a host family member, and 15 percent of them become pregnant. About 77 percent of *restaveks* have never been to school. Among those who have, only 2 percent reach secondary school. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them with little nourishment, and frequently beat and abuse them. The law requires that *restaveks* 15 years of age and older be paid “not less than one half the amount payable to hired servant” to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most *restaveks* away from the home before the children reach the age of 15.

*e. Acceptable Conditions of Work.*—The legal minimum daily wage, established in June 1995 by the Tripartite Commission of Salaried Workers, whose six members are appointed by the President of the Republic, (two representatives each of labor, employers, and Government), is about \$1.52 (36 gourdes). Annually, a minimum wage worker would earn about \$473, an income above the national average but not sufficient to provide a decent standard of living for a worker and family. Some workers are paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens work in subsistence agriculture, a sector where minimum wage legislation does not apply. Many women work 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, the officers of the HNP work 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. The assembly sector published a voluntary code of conduct in April 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 pay the minimum wage or higher amount. However, the real value of the gourde has diminished, and workers are no longer satisfied with the minimum wage. Working conditions are also generally better in this sector. There are no reports of child labor in this sector. However, the Ministry of Social Affairs does not enforce work hours or health and safety regulations. There is no formal data, but unions allege that job-related injuries are prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Rural families send young children to affluent city dwellers to serve as unpaid domestic labor; the families of such *restaveks* frequently receive monetary compensation (see Sections 5 and 6.d.). An estimated 300,000 children, 75 percent of them girls, may be victims of this practice.

There were no other reports of trafficking to, from, within, or through the country. However, there are anecdotal reports on the practice of families taking *restaveks* to Europe and the United States to continue using them as domestic servants.

## HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected for 4-year terms. President Carlos Roberto Flores Facusse of the Liberal party took office in January 1998. Since the country's return to democracy in 1982, the two major political parties, the Liberals and the Nationalists, both have held power after free elections. The judiciary is generally independent, but often ineffective and subject to outside influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. The national Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The police handle public security, counternarcotics, and border patrol duties. The Government created a Ministry of Security in 1998 to oversee police operations and counter a national crime wave. In November the Government authorized the use of joint armed forces and police patrols throughout the country to combat rising levels of crime. The Government has used the military to patrol the streets seven times in the last 6 years. In January 1999, the National Congress ratified a constitutional amendment that established direct civilian control over the armed forces—through a civilian Minister of Defense—for the first time since 1957. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In July 1999, the President replaced the Chief of the Joint Staff, the Vice Chief of Staff, and other senior HOAF officers after they sought, without prior authorization from the civilian leadership at the Defense Ministry, to have the Congress amend a draft organic law to govern the HOAF; that action further cemented civilian control of the military. A number of versions of the draft law regulating responsibilities between the Defense Ministry and the HOAF were debated during the year; at year's end, Congress had not passed legislation. Members of the police continued to commit human rights abuses.

The market-based economy is based primarily on agriculture and, increasingly, on the important maquiladora (in-bond processing for export) industry, which accounts

for approximately 130,000 jobs, most of which are filled by young women. The HOAF play an indirect, diminishing role in the national economy through their pension fund, which controls some enterprises usually associated with the private sector, including a bank and several insurance companies. About 39 percent of workers labor in agriculture, with most of the rest in industry and manufacturing, commerce, and services. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. In 1998 Hurricane Mitch caused widespread flooding and landslides and over \$3 billion in damage, and led to an economic recession during 1999. Most affected export sectors have recovered, and the economy experienced positive growth during the year. The Central Bank estimated growth for the year at between 5.3 and 5.5 percent. Annual per capita income is approximately \$800; about two-thirds of the country's households live in poverty.

The Government generally respected the human rights of its citizens; however, serious problems remained. Members of the security forces committed some extrajudicial killings. Human rights groups accused the security forces and the business community of colluding to organize "death squads" to commit extrajudicial killings. Security force personnel committed acts of torture, and beat and otherwise abused detainees and other persons, including street children. Prison conditions remain harsh, lengthy pretrial detention is common, and detainees do not always receive due process. Considerable impunity for members of the economic and official elite, exacerbated by a weak, underfunded, and often corrupt judicial system, contributed to human rights problems. Although the civilian courts increasingly considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were relatively few convictions. While no senior Government official, politician, or bureaucrat, or member of the business elite, was convicted of crimes, the Government removed more than 100 military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. On occasion the authorities conducted illegal searches. Individual members of the news media suffered various forms of harassment, including attempted murder and physical assaults. Other human rights problems included violence and societal discrimination against women, child prostitution, abuse of street children, and discrimination against indigenous people. The Government does not enforce effectively all labor laws. Some workers are forced to work overtime. Child labor is a problem, particularly in rural areas and in the informal economy, but not in the exportprocessing sector.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings by government agents; however, the security forces were suspected of an estimated 200 extrajudicial killings, many involving persons under 18 years of age, during the year. 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. Several groups pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements and business leaders with regard to these murders. The Government publicly denied accusations relating to the security forces as institutions but investigated allegations against members of neighborhood vigilante groups. During the year, the authorities sought or detained 11 police officials for their involvement in the killings of various individuals.

In the spring, a suspected gang member who was arrested by police died while in the hospital, after the police reportedly "worked with him" at the crime scene to identify suspects who had fled. Another suspect was executed after the police left him alone in the back of a pickup truck while they chased his companions.

Prison guards shot and killed one escaping prisoner (see Section 1.c.).

In July the nongovernmental organization (NGO) Covenant House reported that 302 homeless children and street youths were killed in "social cleansing" killings between January 1998 and May. The majority of the killings occurred in Tegucigalpa and San Pedro Sula. Covenant House attributed 36 percent of the killings to the police and members of the military; and private security officers committed other killings. In August the Public Ministry and the General Directorate of Criminal Investigation (DGIC) named a joint special commission to investigate the extrajudicial killing of minors. In October the DGIC reported that 312 minors were victims of

extrajudicial killings between 1998 and 2000. In October Covenant House filed a complaint with the Inter-American Commission on Human Rights (IACHR) stating that 360 street children were killed from 1998 through October 2000. In 1997 Covenant House brought charges before the Public Ministry against unnamed members of the armed forces and the police for the alleged torture of 63 juveniles or minors, 35 of whom reportedly were murdered, since 1990. The Government took no action in this instance.

The case of a prison guard who shot and killed a minor who refused to surrender after escaping from the central penitentiary in Tegucigalpa in May 1999 went to trial during the year; however, no further information was available.

Human rights organizations continued to allege that individual members and former members of the security forces, acting in collusion with business leaders, committed extrajudicial killings of street criminals. They also charged neighborhood watch ("vigilante") groups with the responsibility for many extrajudicial executions. On various occasions during the year, the Public (Justice) Ministry and the National Human Rights Commission (NHRC), an autonomous government entity, publicly admitted that individual government employees might be taking part in such executions; however, the Government asserted that the individuals were acting without official authorization.

There was no progress in the investigation of the March 1999 murder of Juan Ramon Alvarado, the late mayor of Cabanas in Copan department. Two suspects previously detained were released in 1999 due to lack of evidence.

In September the Third Court of Appeals issued an arrest warrant for Jaime Raudales, a former member of the now-disbanded Army Intelligence Battalion 3-16, for the 1988 murders of social activists Miguel Angel Pavon and Moises Landaverde.

Also in September, a government team exhumed the remains of four persons from a cemetery in Olancho department; these were the first official exhumations by the Government (see Section 1.b.).

There were several developments in the investigation of the 1982 murder of Nelson MacKay Echevarria. During the year, a court charged Colonel Wilfredo Leva Cabrera with the killing. Leva Cabrera, who is in prison on a drug trafficking conviction, requested protection under the Amnesty Law; however, during the year the Supreme Court overruled a lower court decision and rescinded amnesty protection for Leva Cabrera in this case. At year's end, the murder charge was being initiated in a criminal court. At year's end, former military official Alexander Hernandez Santos was being tried for the murder of MacKay, as well as other crimes related to human rights abuses.

In March Major Manuel de Jesus Trejo Rosa, who for 5 years had been a fugitive from justice, surrendered voluntarily to the authorities, who remanded Trejo Rosa to a prison hospital. In May the court indicted him for the murder of MacKay; he also was indicted for the kidnaping and torture of Miguel Francisco Carias, as well as the 1982 kidnaping and torture of six university students (see Section 1.c.). In June the court released Trejo Rosa from the prison hospital but ordered him placed under house arrest due to his age and infirmity.

In February the First Court of Appeals acquitted Captain Billy Joya Amendola of the 1982 murder of university student Hans Madisson. The Public Ministry appealed this decision to the Supreme Court in March. In October a court issued an arrest warrant for Joya Amendola in connection with the 1982 kidnaping and torture of six university students (see Section 1.c.).

There was no information available regarding the Public Ministry's appeal of an October 1999 ruling by a lower court that found former army chief of staff Oscar Hernandez Chavez not guilty of the 1982 murder of university student Hans Madisson.

In July the Third Court of Appeals acquitted retired General Daniel Bali Castillo, retired Colonel Manuel Enrique Suarez Benavides, and retired police Major Marco Antonio Matute Lagos of the 1982 deaths of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz. The Public Ministry filed appeals of these decisions with the Supreme Court, which had yet to rule on the appeals at year's end. The Supreme Court is required to confirm the ruling of the Third Court of Appeals for a full acquittal; it had not done so by year's end. Other former military officials, including Alexander Hernandez Santos (who was in prison and being questioned about this incident at year's end), still face charges in this case.

In September a court sentenced police officer Jose Raul Bonilla Velasquez to 15 years' imprisonment for the murder of Jose Alejandro Molina. The court acquitted police officer Jose Alfredo Leiva in the same case.

In November a court sentenced Oscar Esmelin Rivera to 20 years in prison for the October 1998 killing of Pedro Garcia Villanueva, the director of Public Ministry attorneys in Santa Barbara department. Garcia had been investigating alleged

human rights violations and other criminal activities in the region at the time of his death.

In February the Public Ministry named a special prosecutor to continue its investigation of the 1998 murder of Carlos Antonio Luna Lopez, a town councilman in Catacamas, Olancho department. A suspect in the murder of Luna Lopez, Oscar Aurelio "Machetillo" Rodriguez Molina, subsequently was brought before a court, which in March conducted a "reenactment" of Luna Lopez's murder. Several other suspects remained at large at year's end.

Homicides, armed robberies, and other violent assaults remained commonplace. 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. In February the Security Ministry authorized the creation of approximately 500 neighborhood watch groups, known as Citizen Security Councils (CSC's), around the country to assist the police in combating rising crime. Human rights groups during the year criticized the CSC's, which they viewed as active participants in the increasing number of extrajudicial killings. However, in June National Human Rights Commissioner Leo Valladares stated publicly his belief that the CSC's were not acting as vigilantes or "death squads." The continued proliferation of private security forces and CSC's nonetheless made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, private vigilantes, or common criminals. In October the Government ordered all private security firms to turn in assault rifles, even if acquired legally, in an effort to decrease the availability of weapons to criminals.

Vigilante justice allegedly led to the killing of known and suspected criminals, as well as of street children (see Section 5). The Preventive Police claimed to have investigated 382 of 410 known killings since 1997, concluding that all police personnel accused of involvement in such incidents had been placed at the disposition of the courts, except for 1 fugitive.

Several "murders for hire" occurred during the year, usually related to land disputes or criminal activities. In February the police arrested Johnny Orlando Funez Funez and Jose Antonio Galdamez for the murder of social activist Jairo Amilcar Ayala Nunez in Lanza, Colon department over a land expropriation case. Also in February, four unidentified gunmen killed community leader Ruben Elvir in El Camalote, Santa Barbara department. Also in February, unknown assailants killed Marciano Martinez Ramirez and Victor Manuel Almendares, the president and the treasurer, respectively, of a forestry cooperative in Lepaterique.

In March four members of the Chorti indigenous group, Vicente Arias, Enecon Arias, Antonio Garcia, and Balbino Hernandez died during a gun battle in Copan. Ines Mejia and Wilfredo Bueso were arrested for the murders; a third assailant died during the gun battle. Indigenous activists claimed that the group was killed in a dispute over tribal lands; however, the police asserted that the killers and their victims were members of rival criminal gangs involved in the contraband trade (see Section 5).

In April two gunmen killed Concepcion "Chonillo" Alvarez and three members of his family in Choluteca over a local land dispute; no one has been arrested in this case. Also in April, the authorities arrested Julio Cesar Espinoza Mejia for the murder of Copan mayor Hugo Alvarado over another land dispute.

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

Various witnesses, survivors, and former HOAF personnel have charged that members of the now-disbanded army Intelligence Battalion 3-16 kidnaped, tortured, and killed many of the 184 persons who disappeared during the 1980's. The Public Ministry and the National Human Rights Commission kept open their investigations of those disappearances.

In February the Public Ministry filed an appeal of a December 1999 decision by a lower court that freed former police intelligence director Carlos Roberto Velasquez Iloares in the 1988 disappearance of leftist activist Roger Samuel Gonzalez Zelaya. The appeals court had not ruled on this petition at year's end.

On June 26, the Supreme Court ruled that illegal detention and execution committed by military officials were not covered by the 1987 Amnesty law (see Section 1.e.). This ruling allows for the criminal prosecution of the military officers accused of the 1982 kidnaping and torture of six leftist university students (see Section 1.c.).

In September a government team of forensic experts from the Public Ministry and local officials exhumed the remains of four persons from a cemetery at Dulce Nombre de Culmi in Olancho department. The four persons were believed to have been guerrillas who died during a firefight with HOAF personnel in 1983. Government forensic experts planned to conduct DNA testing on the remains of the four persons in an effort to verify their suspected identities; those efforts continued at

year's end. Human rights activists noted that these were the first official exhumations by the Government.

Following charges brought by human rights groups to the IACHR beginning in 1986, in November the Government made compensatory payments totaling approximately \$1,580,000 (23,800,000 lempiras) to the families of 17 persons who disappeared between 1981 and 1989. The human rights groups then dropped their charges before the IACHR. The suspected perpetrators of those disappearances remain subject to criminal prosecution in the future, but these payments freed the Government of further civil liability in these 17 specific cases. Some human rights activists publicly criticized as inappropriate the presence among the group of 17 families receiving payments of the NGO Committee of Families of the Detained-Disappeared of Honduras (COFADEH) general coordinator Bertha Oliva de Nativi, and of Andres Pavon, president of the Committee for the Defense of Human Rights in Honduras (CODEH), since the relatives of the other 167 persons who disappeared during this time period have not received justice nor any financial recompense.

The courts adjudicated several pending cases involving disappearances (see Section 1.a.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained a problem. The police also engaged in violence, which included beatings, against street children (see Section 5). During the year, a court in San Pedro Sula ordered the imprisonment of four police officers accused of wounding a woman in a vehicle that they allegedly attempted to stop in late December 1999. On March 30, the authorities detained the officers.

In February Special Prosecutor for Human Rights Wilfredo Flores charged publicly that police officers routinely protected torturers and other human rights abusers in their ranks. In March DGIC Director Wilfredo Alvarado denied that DGIC agents tortured or abused prisoners. In May Preventive Police Director Alvaro Flores Ponce made a similar declaration regarding the Preventive Police. In October the Preventive Police were singled out in Amnesty International's annual report for their use of "torture and excessive force."

During the year, the Ministry of Security revised the procedures for internal review of police abuse and misconduct, partly as a result of public pressure from human rights groups and the Public Ministry, which in the past had reported that the Preventive Police's reviewing office was unresponsive to their requests for impartial investigations of police officers accused of abuse. The police force, which includes the Preventive Police and the DGIC, is subject to investigation by the Internal Affairs office regarding public complaints of police behavior; the Internal Affairs office reports to the Minister of Security. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions. Some human rights groups indicate that the new system has increased impartial judgments of police behavior.

Both the DGIC and the Preventive Police suspended or dismissed numerous agents and officers for corruption and abuse of authority during the year. The Public Ministry reported that it received 697 complaints of police abuse through August, compared with 421 complaints during 1999. The authorities dismissed more than 100 police officers and DGIC agents during the year, compared with nearly 400 officers and agents in 1999. The authorities accused 16 police and DGIC agents of torture and other abuses, and charged 4 persons with corruption and abuse of authority during the year. For example, in October the DGIC fired chief administrative officer Armando Espinal for alleged corruption, and a lower court issued an arrest warrant for former FUSEP Director Julio Cesar Chavez Aguilar for profiting from noncompetitive FUSEP purchases during his tenure as director.

In February the HOAF announced that three army officers would be tried in courts-martial for having beaten and threatened eight recruits in January in an effort to recover a missing weapon. The Defense Minister, the HOAF chief of the joint staff, and other senior officers met with the president of CODEH, the country's leading human rights NGO, to review this incident, which also led the HOAF to create a Directorate of Humanitarian Law to investigate future human rights abuses within the HOAF. Also in February, the Defense Ministry appointed a civilian as its chief financial officer in an effort to counter a history of corruption among former HOAF paymasters and announced that it would cooperate with investigations by private human rights groups of alleged abuses of authority by HOAF personnel. In March the HOAF inaugurated mandatory human rights training for its majors and

captains. In September the Defense Ministry signed an agreement with the Inter-American Institute for Human Rights to provide human rights training for the HOAF.

In May Manuel de Jesus Trejo Rosa was indicted in the 1982 kidnaping and torture of six leftist university students, as well as for the kidnaping of Miguel Francisco Carias and the murder of Nelson MacKay Echevarria (see Section 1.a.). Trejo Rosa surrendered to the authorities in March; he remained under house arrest at year's end.

On June 26, the Supreme Court ruled that illegal detention and execution committed by military officials were not covered by the 1987 Amnesty Law (see Section 1.e.). This ruling allows for the criminal prosecution of the military officers accused of the 1982 kidnaping and torture of the university students. Seventeen current and former military and police officials continued to face simultaneous criminal and civil charges in various courts. As a result of the Supreme Court's decision, amnesty laws are no longer applicable for: Alexander Hernandez, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, Captain Billy Hernando Joya Amendola, retired General Amilcar Zelaya Rodriguez, Juan Ramon Pena Paz, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Julio Cesar Funez Alvarez (the current deputy director of the Preventive Police).

In September the First Court of Appeals once again issued arrest warrants for Raymundo Alexander Hernandez Santos and for Julio Cesar Funez Alvarez. In September the Supreme Court ruled against a petition by the Public Ministry for the preventive detention of Joya Amendola for the 1982 kidnaping and attempted murder of the six university students. In October the First Court of Appeals issued additional arrest warrants in this case for Billy Joya Amendola, Amilcar Zelaya Rodriguez, and Manuel de Jesus Trejo Rosa. At year's end, Hernandez Santos, who turned himself in voluntarily, was detained for questioning regarding his involvement in the case.

In 1998 the Supreme Court had ruled that the country's amnesty laws protected Juan Blas Salazar Meza from prosecution for the 1982 kidnapings. The June Supreme Court decision overturned that decision. Salazar Meza is serving a 5-year prison sentence for narcotics trafficking. In September the First Court of Appeals reinstated an arrest warrant for Salazar Meza, sought by the Public Ministry in connection with the 1982 cases as a first step to bringing him to trial.

In September a judge issued a warrant for the arrest of retired General Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred. An appellate court upheld the arrest warrant for Zelaya in October.

In August a separate court ruling absolved Captain Billy Joya Amendola of all charges in the 1982 torture of newsman Oscar Reyes Baca and his wife, Gloria de Reyes (see Section 2.a.).

The police forces are underfunded and understaffed, and corruption is a problem. Widespread frustration at the inability of the security forces to prevent and control crime, and the well-founded perception that corrupt security personnel were complicit in the high crime rate, led to continued support among a segment of the general public for vigilante justice (see Section 1.a.).

In August Security Minister Gautama Fonseca dismissed Preventive Police Deputy Director Wilfredo Urtecho Jeamborde and DGIC Deputy Director Saul Bueso Mazariegos from their posts. Human rights and civic groups noted the dismissals, since both Urtecho Jeamborde and Bueso Mazariegos have been suspected in the past of profiting from a variety of illegal enterprises. The Public Ministry reportedly was investigating both individuals at year's end for possible prosecution.

Prison conditions remained harsh. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape. The 27 penal centers held over 11,500 prisoners, more than twice their maximum capacity; more than 90 percent of all prisoners were awaiting trial for an average of 22 months, with some waiting over 5 years (see Section 1.d.). Prison facilities are overcrowded, and pretrial detainees generally are not separated from convicted prisoners. Prison security was poor. Contrary to the previous year, the Government did not send the army in to any prisons to maintain order during the year. Retired military officers do work as guards in some areas, and some Preventive Police are used as guards. Prison disturbances, caused primarily by harsh conditions, occurred throughout the year, although at a lesser rate than in 1999, due to increased manpower and training of prison personnel. On March 27, a fight at the San Pedro Sula prison left one prisoner dead and five prisoners and guards wounded. Following the fight, the authorities transferred 181 prisoners to HOAF facilities. Prison escapes, through bribery or otherwise, remained a

frequent occurrence. Prison guards shot and killed one escaping prisoner during the year; there were no other serious injuries to escaping prisoners.

More often than not, for lack of alternative facilities, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. 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 \$0.40 (6 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food.

In June 1999, the Public Ministry signed an agreement with the Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and their Relatives to establish programs to protect the human rights of prisoners; to train police and prison personnel to avoid committing acts of torture; and to arrange for periodic inspections of prisons. These programs continued during the year. In February a Tegucigalpa court ordered the central prison in the capital to suspend disciplining prisoners because of widespread reports of abuse, and instructed prison authorities to develop a plan to stop the alleged abuses. In September the Security Ministry and CODEH agreed to collaborate on a national plan to provide human rights training to prison guards and to rehabilitate the prison population through formal education and vocational training.

In July the Government announced that it would build a model prison farm in the Sula Valley at a cost of \$15 million (225 million lempiras). The 1,500-bed penitentiary, scheduled to open in 2002, would be one of several to be built to relieve overcrowding and promote rehabilitation within the country's antiquated penal system.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. This lack of juvenile detention facilities contributed to the detention of minors in adult prisons and to vigilante violence against, and police abuse of, street children (see Sections 1.a. and 5). In February Covenant House alleged that 800 juvenile criminals have been housed in adult prisons since 1995. Street children in detention sometimes were housed in adult prisons, where they were abused routinely. However, in May Covenant House made public its judgment that the Government no longer routinely houses juvenile offenders in adult prisons. In October the IACHR ordered the Government to make compensatory payments to 300 juvenile offenders who served time in adult prisons from 1995 to 1999. In April the Government announced plans to permit juvenile criminals to pursue an education while in prison.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally fail to observe these legal requirements. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. By law the Preventive Police cannot investigate crimes; that force only detains suspects. The police must bring a detainee before a judge within 24 hours; the judge then must issue an initial, temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation.

While bail is legally available, it is granted primarily for ostensibly medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention is a serious problem; in March an independent study estimated that 92 percent of prisoners were awaiting trial, some for over 5 years. The average length of detention was approximately 22 months, and over 90 percent of all prisoners had been neither tried nor sentenced (see Section 1.c.).

The 1996 Unsented Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time under detention exceeds the maximum prison sentence for the crime of which he is accused. This law also authorizes the parole until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the mortally ill. In April 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 person,

and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras).

However, despite this law, many prisoners remain in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. A significant number of defendants served the maximum possible sentence for the crime of which they were accused before their trials were concluded, or even begun. For example, a man arrested in August 1997 was released without a trial in October 1999, while his two alleged accomplices, who also were arrested in August 1997, were released without trials in October 2000. In September the authorities released a man who had been exonerated of all charges 6 days after his arrest in July 1998. Also in September, the authorities released another man who had been detained without a trial since April 1996. In October the authorities released one prisoner who was arrested in June 1991, and then ordered freed in March 1995.

Neither the Constitution nor the Legal Code explicitly prohibits exile, but it is not used as a means of political control.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to outside influence. While the Government respects constitutional provisions in principle, implementation has been weak and uneven in practice. A number of factors limit the effectiveness of the system. Both the judiciary and the Public Ministry suffer from inadequate funding; low wages and lack of internal controls make law enforcement officials susceptible to bribery; the civil law inquisitorial system is both inefficient and opaque; and powerful special interests still exercise influence and often prevail in the courts. Approximately 35 percent of the complaints received by the National Human Rights Commission concern the judicial system. Many leading politicians enjoy constitutional immunity.

The court system is composed of a 9-member Supreme Court, 10 appeals courts, 67 courts of first instance with general jurisdiction, and 325 justice of the peace courts with limited jurisdiction. Congress elects the nine Supreme Court justices and names the president of the court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincides with those of the Congress and the President.

The Constitution provides for the right to a fair trial; however, the written, inquisitorial trial system is labor-intensive, slow, opaque, and does not protect the rights of defendants adequately. In December 1999, the Congress passed a law to modernize the Criminal Procedures Code; this new law, which is scheduled to take full effect in February 2002, substitutes an adversarial system for the inquisitorial system and mandates a speedier disposition of cases. The new law is designed to change the code into one based upon the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without first receiving a clear sentence from a judge or tribunal.

Judges legally are in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, the police, public officials, and individual citizens can initiate criminal proceedings. As many as 80 percent of the cases reported to the police are never referred to the criminal justice system, but instead are settled administratively by the police or by municipal courts. A judge may jail an accused person for 6 days before a determination is made of probable cause to accept charges. If a judge sustains the criminal accusation, the accused remains in jail, or may be released on bail while awaiting trial (see Section 1.d.).

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. Although the Constitution recognizes the presumption of innocence, the criminal code in practice often is administered by poorly trained judges operating on a presumption that the accused is guilty; consequently, the rights of defendants often are not observed. All stages of the trial process are conducted in writing and, at the judge's discretion, may be declared secret and, thus, even less "public" than normal.

Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys are entitled to review governmentheld evidence relevant to their cases, but this right is not always respected in practice.

A public defender program provides assistance to those unable to afford an adequate defense. There are 137 public defenders providing free legal services nationally to 37 percent of the prison population; however, public defenders are hard pressed to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. The Supreme Court issued an instruction in 1998 that holds judges personally accountable for reducing the number of back-

logged cases, and 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, but it has had little effect.

Modest progress was made in previous years towards implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and break the subcultures of corruption, clientism, patronage, and influencepeddling 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.

On April 7, the National Human Rights Commissioner released a report that alleged political interference and corruption within the judiciary. The Supreme Court filed a lawsuit against Valladares, and charged him with engaging in "corruption, extortion, and blackmail;" however, the Supreme Court later dropped its charges (see Section 4).

On May 2, President Flores issued a decree that created a special commission to draft recommendations for improving the judicial system. On September 19, the commission presented recommendations to the President. The Government incorporated many of these recommendations into a constitutional amendment that was presented to Congress on October 3. Congress passed the amendment on December 20; it must approve it a second time in the 2001 session.

On November 7, the Supreme Court announced that it is investigating 500 civil, criminal, administrative, and labor judges in an anticorruption effort. According to press reports, at least 100 judges have been charged with corruption or fired for judicial indiscretions in the past 3 years.

Elements of the armed forces withheld their cooperation from official efforts to track down military officers wanted in connection with alleged human rights abuses dating back to the 1980's. The Supreme Court considered throughout the past decade whether legal amnesties adopted in 1987, 1990, and 1991 for crimes committed during the 1980's covered the military, as political deliberations in the Congress had suggested. In 1998 the Court determined that while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits. On June 26, the Court ruled that laws providing amnesty protection to present and former military officials were inapplicable to common crimes, such as illegal detention and homicide, which some officials were alleged to have committed. At the request of the Public Ministry, on August 1, the Court clarified that its June ruling applied only to the specific case (the 1982 kidnaping and torture of six university students) under consideration (see Section 1.c.), and that the amnesty laws would continue to apply to all military defendants until the prosecutor in a specific case established the grounds for the exclusion of amnesty for the accused in that case. Thus, military officials still may benefit from the amnesty laws, but the Public Ministry now has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

Many leading politicians enjoy constitutional immunity from prosecution because of their membership in either the National Congress or the Central American Parliament. That immunity extends to acts committed before taking office. Only the National Congress can deprive a protected person of his immunity: such a person lacks the legal capacity voluntarily to surrender his immunity. In April the Congress passed a General Law of Immunities that reduced the number of government positions with immunity from an estimated 1,250 to less than 200 positions. The new law continues to require a vote of Congress to deprive an individual protected under the law of his immunity, but it permits certain civil suits to be brought against such an individual without regard to his position in the Government. In March Attorney General Roy Medina declared that military amnesties and the political immunity of political leaders combined to make impossible the prosecution of such individuals for alleged past and present crimes.

Over the past 6 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also ranking officials of the two 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.

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 in the employ of 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., or at any time in the event of an emergency or to prevent the commis-

sion of a crime. However, as in previous years, there were credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak. The Government respects the privacy of correspondence.

*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 largely respected these rights in practice. However, journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. A small number of powerful business magnates whose business interests, political loyalties, and family ties often intersect own many news media. Systemic national problems, such as corruption and conflicts of interest, also have limited the development of the news media. For example, three of the four national newspapers are run by presidential candidates or their close family members. Reporting of events, particularly those related to elections, is subject to editorializing.

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 alike. Other methods are more subtle, such as the coveted right 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 comparatively little investigative journalism that took place focused on uncontroversial issues, such as illegal immigration. When the news media attempted to report in depth on national politicians or official corruption, they continued to run into obstacles, such as external pressures to desist from their investigations, artificially tight reporting deadlines, and a lack of access to Government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice, given their own workloads and the difficulty of discovering why a given reporter opted to emphasize one aspect of a story over another, or why a particular name was omitted from a list of suspects to be made public.

The executive branch continued to make frequent use of the “*Cadena Nacional*,” a complete preemption of all television and radio broadcasting, including international channels seen only on cable television. Originally designed to transmit critical information during an emergency or crisis, such as Hurricane Mitch, the *Cadena Nacional* is used primarily to promote the supposed accomplishments of the Government, from the inauguration of infrastructure projects to the transmission of President Flores’s audience with the Pope. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The leading newspaper in the capital of Tegucigalpa, *La Tribuna*, was founded by the late father of President Flores. *La Tribuna* is still run by his family, and it competes directly with rival publications for scarce revenues from advertising, much of which comes from the Government itself.

In March *El Nuevo Dia*, the smallest of the five daily newspapers, ceased publication due to rising production costs and a protracted labor dispute with its production staff.

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 the awards as little more than acknowledgments by the granting institutions of perceived services rendered. One newspaper editor who regularly rotates news assignments precisely to avoid any conflict of interest acknowledged that employees objected to the rotations because the practice effectively eliminated them from award consideration each year.

Individual members of the news media suffered various forms of harassment. In February Vica television reporter Allan Montenegro lost an eye during an altercation with police following an automobile accident. Montenegro, who is suing the Security Ministry over the incident, said that a police officer struck him in the face

with the butt of a rifle after Montenegro identified himself as a reporter. In May Canal El Progreso television reporter Hernan Cubas Padilla filed a complaint with the National Human Rights Commission alleging that Deputy Johny Handal had threatened at various times to close Canal El Progreso and kill Cubas Padilla due to his reporting of alleged corrupt activities in Yoro department by Handal, deputies Jamil Hawit and Rene Ramon Robleda, and El Progreso town councilwoman Nelly Soliman. Also in May, deputy and former president of Congress Rodolfo Irias Navas struck La Prensa newspaper reporter Ramon Alberto Tejedo while Tejedo conducted a press interview with a third party.

In April Radio Progreso news director Julio Cesar Pineda Alvarado survived a drive-by shooting but was injured when a bullet struck his head; Pineda Alvarado subsequently reported having received death threats and being followed prior to the attack.

In April El Heraldo newspaper reporter Leonarda Andino filed a complaint with the National Human Rights Commission because she received a summons for publishing excerpts from a report on the judiciary by the National Human Rights Commissioner (see Section 1.e.). In July a court in San Pedro Sula ordered El Heraldo reporter Sogelia Alvarado to testify in a defamation suit filed by Supreme Court President Oscar Armando Avila Banegas against mayoral candidate Oscar Kilgore. In September a court acquitted La Prensa reporter Arnulfo Aguilar of credit card fraud, abetting the escape of a prisoner, and contempt of court; Aguilar had maintained during his trial that unnamed persons whom he was investigating for alleged corruption had generated false charges against him. In October Deputy Francisco Herrera Dominelli filed a lawsuit on behalf of his wife against La Prensa reporter Serapio Umanzor Diaz, whom Herrera Dominelli accused of defaming his wife in the course of reporting on her business activities; Umanzor Diaz avoided a prison sentence by paying a fine of \$192 (2,880 lempiras).

According to the Inter-American Press Association (IAPA), during the year television journalist Rosanna Guevara lost her position as a manager in Vica Television's news department, allegedly because she criticized President Flores. In March she reported receiving death threats over her station's political coverage.

Such attempts by government officials and unidentified assailants to intimidate journalists increasingly led both local and foreign observers to call into question the ability of the news media to report freely on sensitive topics. In May the annual report of the IAPA noted that 13 reporters had been subjected to various forms of harassment during the past decade. In October the NGO Freedom House expressed concern regarding local treatment of the news media. At its annual conference in October, the IAPA adopted a resolution that called attention to several of the harassment cases and called upon the Government to respect the freedom of the press.

In August a court absolved former army captain Billy Joya Amendola of all charges in the 1982 torture of newsman Oscar Reyes Baca and his wife, Gloria de Reyes (see Section 1.c.).

The Government respects academic freedom, and has not attempted to curtail political expression on university campuses.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respects it in practice.

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias (see Sections 4 and 5). Dozens of persons conducted a hunger strike in support of Sanchez for 9 days during August and September, and some 1,200 protesters seized the Mayan ruins at Copan, the country's leading tourist attraction, in September. On September 7, the police forcibly restored order to the site after 3 days of protests, causing 15 injuries (including 5 police) in the process.

Also in September, some 300 indigenous persons sought to march from Copan to Tegucigalpa in support of Sanchez; however, the Security Ministry arrested all of the marchers in order to prevent them from entering Tegucigalpa. The Supreme Court subsequently issued a writ of habeas corpus to compel the Security Ministry to release the marchers. The protests and the hunger strike ended in mid-September when the Public Ministry agreed to reinstate Sanchez on the condition that he immediately would resign his post, receiving the various severance payments provided for by the Labor Code. In November lawyers for the demonstrators filed a lawsuit against Security Minister Gautama Fonseca, which accused him of abusing his authority and violating their civil rights when he ordered their detention in September. If the courts accept the protesters' lawsuit, the Minister in theory could face criminal charges as well; the courts had not made a decision at year's end.

On December 5–6, protesters clashed with police during a demonstration in support of opposition presidential candidate Ricardo Maduro (see Section 3). Protesters attacked police with sticks and rocks; at least 12 persons were injured, including

3 journalists. Police used tear gas to break up the demonstration and arrested 20 persons.

In March the Public Ministry announced that it had declined to prosecute several dozen alleged instigators of a riot in front of the presidential offices in October 1999. The Ministry also announced that it was considering pressing charges against senior police officials who directed the police response against the alleged rioters, 44 of whom sustained a variety of injuries at the time. In October the Government made compensatory payments averaging \$1,500 (22,500 lempiras) each to the 44 persons injured during the 1999 protest, including a payment to the family of 1 individual who died of natural causes in May, and to the indigenous organization that organized the 1999 demonstration (see Section 5). The total amount of payment each victim received depended upon the type of injury suffered.

The Constitution provides for freedom of association, and the Government generally respects it in practice.

*c. Freedom of Religion.*—The Constitution provides for all forms of religious expression, and the Government generally respects this right in practice.

In September the Congress adopted a controversial measure requiring that, beginning in 2001, all school classes begin with 10 minutes of readings from the Bible. Parents who do not want their children to listen to the readings may notify school authorities in writing. The Education Ministry, in consultation with Christian churches, is to establish procedures to select readings, plan their implementation, and promote their distribution. However, the law does not stipulate which segments of the Bible would be used. After the vote, many legislators also questioned whether the wording of the legislation in fact made such readings mandatory. Evangelical Christians supported the law; however, lay constitutional scholars, the Roman Catholic Church, and other religious leaders opposed the measure as a violation of the constitutional separation of church and state. A legal challenge to the constitutionality of this law appeared likely at year's end.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migrations (IOM), and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

There were no reports of the forced return of persons to a country where they feared persecution. On several occasions during the year, small boats piloted by persons fleeing Cuba were discovered in Honduran waters or washed ashore. In each instance, the Government provided temporary refuge to those Cubans and collaborated with the IOM and local human rights groups to interview each person to determine whether the individual had a well-founded fear of persecution. In every instance, the Government assisted those persons who expressed a desire to return to Cuba to do so, facilitated voluntary transit by others to third countries, or granted temporary residence and work permits to those who wished to remain in the country.

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

Citizens last exercised the right to change their government through democratic and peaceful elections in November 1997. International observers found the elections to be free and fair.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, direct, and obligatory balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the president, deputies in the National Congress, and municipal leaders, making individual elected officials more representative and accountable. Voting was made easier for citizens by a change that allowed them to vote closer to their homes.

Suffrage is universal; however, neither the clergy nor members of the military or civilian security forces are permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. 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.

In June the Congress amended the Law on Elections and on Political Organizations to permit citizens residing abroad to vote in future presidential elections. The opposition National Party charged that the ruling Liberal Party had brought the bill to a vote without prior notice and when few Nationalists were present, and asserted

that the amendment was illegal because it failed to include Congressional elections or to provide a role in overseas elections for the National Electoral Tribunal (TNE), as required by the existing law. When the Nationalists threatened to challenge the constitutionality of the amendment, the Liberals agreed to negotiate with the Nationalists over how overseas voting would be conducted; the status of this legislation and its implementation continued to be debated at year's end.

The next national elections are scheduled for November 2001; presidential primaries for the Liberal and National parties took place in December. President of Congress Rafael Pineda Ponce won the Liberal primary; Luis Cosenza, a stand-in for the original candidate Ricardo Maduro, won the National Party's primary. A major political conflict began in October after the ruling Liberals petitioned the National Electoral Tribunal (TNE) not to allow National Party presidential contender Maduro to compete in his party's primary because the Liberals questioned whether he was "Honduran by birth," a legal requirement for assuming the presidency. (Maduro was born in Panama of a Panamanian father and a Guatemalan mother, but Maduro and his mother both received official documentation of Honduran citizenship in the 1980's, through Maduro's Honduran maternal grandmother. Since that time, Maduro has served in several government positions that required "Honduran by birth" nationality.) Despite numerous accusations, an arbitration of international jurists, and presidential intervention, the TNE refused to register Maduro for the primary. At year's end, the National Party continued to express interest in reinstating Maduro as the presidential candidate, even though the question of Maduro's citizenship was not resolved.

There are no legal impediments to the participation of women or minorities in government and politics; however, they are underrepresented. One of the country's three vice presidents is a woman, as are four cabinet ministers; approximately a dozen women also serve as vice ministers or head various government agencies. Women hold 12 of 128 seats in the National Congress, and 2 of 20 Honduran seats in the Central American Parliament. The Government's Office of Women's Affairs has cabinet-level status, although the executive president of that office is not a member of the cabinet. There is one female justice on the Supreme Court.

In April the Congress enacted a Law of Gender Equality that mandates that 30 percent of all candidates nominated for public office by recognized political parties be women. Female legislators and women's groups criticized this law for not requiring full gender parity in political party slates. They also complained that, in practice, electoral slates for general elections would not meet the 30 percent threshold established by the law because the country's few female politicians might be defeated during the internal nominating processes of the political parties. The law is expected to apply to the 2001 elections.

There are few indigenous people in leadership positions in government or politics. There are no members of Congress who state that they are indigenous, but there is one indigenous alternate deputy.

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

A wide variety of human rights groups operates without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperate with these groups and are responsive to their views.

Anonymous telephone callers continued to threaten human rights workers. The National Human Rights Commissioner and the leaders of the CODEH and of the COFADEH all reported receiving numerous death threats by telephone.

In 1996 the Congress ratified a presidential decree expanding the functions of the NHRC and unanimously reelected Leo Valladares to a 6-year term that is scheduled to expire on March 5, 2002. Under this decree, and in fulfillment of his expanded functions, the NHRC has free access to all civilian and military institutions and detention centers, and is supposed to perform his functions with complete immunity and autonomy. However, in April the Supreme Court filed a lawsuit against Valladares, and charged him with engaging in "corruption, extortion, and blackmail" over a report issued by the NHRC in April that exposed corruption within the judicial branch (see Section 1.e.). However, the Supreme Court later dropped its charges.

In June the NHRC announced that the Commission would close 7 of its 12 regional offices for budgetary reasons. Human rights activists charged that the Government deliberately underfinanced the NHRC to hinder its operations. Valladares observed publicly that, while the NHRC required an annual budget of \$1.8 million (27 million lempiras) to operate on a national scale, the actual NHRC budget for the year 2000 was only \$1,067,000 (16 million lempiras). Various aid grants from foreign governments to the NHRC expired earlier in the year. In December the Con-

gress passed a budget that provides the NHRC with a budget of \$1.6 million (24 million lempiras).

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias, ostensibly as part of a reorganization of the Ministry. However, indigenous groups claimed that Sanchez had been fired for investigating reports of violations of indigenous rights too diligently (see Section 5).

In March the CODEH publicly accused the INTERPOL unit in Honduras of conducting research into the CODEH's foreign information and funding networks, but did not make public any evidence to support those accusations. In July the CODEH announced that it would close four of its regional offices due to a shortfall in funding.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 before the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (see Section 1.e.).

*Women.*—Violence against women remained widespread. The Penal Code was amended in 1997 to classify domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In February the Pan-American Health Organization reported that 60 percent of women have been victims of domestic violence. Most such violence took place within the family. 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 he marries his victim.

Under pressure from women's advocacy and reform groups, the Congress in 1997 enacted the Law Against Domestic Violence to strengthen the rights of women and increase the penalties for crimes of domestic violence. This law allows the Government to protect battered women through emergency measures, such as detaining an aggressor or separating him temporarily from the victim's home. It also imposes such penalties as a fine of \$333 (5,000 lempiras) and 4 years' imprisonment per incident.

In March the Public Ministry reported that it receives an average of 200 allegations of domestic violence each month, but that many cases remain pending because the Government has not yet created the special courts authorized by the Law Against Domestic Violence. In August the Public Ministry reported investigating 10,535 cases of spousal abuse during 1999; male spouses filed 1,267 of those cases. In September the U.N. Population Fund estimated that 8 of every 10 women suffer from domestic violence. In October the Public Ministry reported that it had received 3,000 complaints of domestic violence, averaging 35 per day, during the year.

The Government attempted to remedy this situation by working with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically maintained for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offer legal, medical, and psychological assistance, but not physical shelter.

Sexual harassment in the workplace also continued to be a problem.

Women, who make up 51 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. In theory, women have equal access to educational opportunities; however, family pressures often impede the ambitions of women intent on obtaining a higher education. 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. In July the Government created the Inter-Institutional Technical Committee on Gender to coordinate government assistance programs for women.

Some organizations have begun to offer assistance to women, principally targeting those who live in rural areas and in marginal neighborhoods of cities. For example, the Honduran Federation of Women's Associations provided home construction and improvement loans, offered free legal assistance, and lobbied the Government on women's causes. The Center for the Investigation and Promotion of Human Rights continued to operate a program to make women aware of their legal rights. Programs that provide small loans to microentrepreneurs target female clients.

Women have advanced significantly in some professions during the past several years. The HOAF and national police academies have accepted female recruits since 1998, and the first class of women to receive aeronautical training at the air force

academy graduated in 1999. In 1998 Reyna Dinora Aceituno was elected Secretary General of the Confederation of Honduran Workers (CTH), the country's second largest labor confederation. In May the capital city of Tegucigalpa hired its first female firefighter. In June and July, the Episcopal Church ordained its first three female religious ministers.

In October tens of thousands of women commemorated World Food Day by conducting demonstrations against poverty and violence in the country's major cities. Also in October, the Government announced a new program to provide "agricultural equality" for women through such measures as recognizing female land ownership separately from male spouses or family members, increasing the number of government land titles granted to women, and facilitating access to financial assistance for female agricultural workers.

*Children.*—Although the Government allocated 32 percent of its budget for the year to public education and health care, this was insufficient to address the needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 10; however, the Government estimated that as many as 175,000 children each year fail to receive schooling of any kind, either due to insufficient financial resources, or because parents rely on their children to assist in supporting the family by working. Girls attend primary school in the same proportion as boys. In October the Government announced its intention to increase its national school capacity by 5,000 children during 2001.

Media reports indicated that up to 40 percent of children under the age of 5 years suffer from chronic malnutrition. The Government estimated that 7,000 children (40 of every 1,000) under the age of 5 die each year because of inadequate health care; to combat these deaths, in March the Health Ministry announced a 2-year program to reduce infant mortality by 25 percent.

The Government was unable to prevent the abuse of street children (see Sections 1.a. and 1.c.) or child laborers (see Section 6.d.). During the year, the Government and children's rights organizations raised their estimates of the number of street children to 10,000, only half of whom have shelter on any given day. The number of street children has increased substantially since 1998, due to Hurricane Mitch. Many street children have been molested sexually, and about 40 percent regularly engaged in prostitution.

Approximately 30 percent of the street children in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive. Over 75 percent of street children found their way to the streets because of severe family problems; 30 percent simply were abandoned. Abuse of street children is a serious problem. Both the police and members of the general population engaged in violence against street children (see Sections 1.a. and 1.c.). In September police arrested the adult son of the Human Rights Commissioner for burning a child's eyelid with a cigarette. He was charged with a minor infraction. The Human Rights Commissioner publicly separated himself from his son's actions and emphasized that his son should be subject to appropriate legal action.

In May the Public Ministry reported receiving an average of 20 complaints of child abuse every week; in May UNICEF estimated that 17 percent of children have suffered some form of child abuse. In March the Tegucigalpa city administration opened 12 temporary shelters for children, with a total capacity of 240 children. In November the Government announced that it plans to open a 24-hour Street Child Attention Center in Tegucigalpa, which had not opened at year's end. The Center, working with the municipal authorities and with children's rights organizations, would initiate contact on the streets with abandoned children, meet their basic needs, then offer counseling and formal or vocational training to help reincorporate them into society.

Human rights groups implicated out-of-uniform security force personnel, vigilantes, and business leaders in many juvenile deaths (see Section 1.a.). In February Covenant House alleged that 21 children were killed and 879 children suffered various forms of mistreatment from 1994 to 1999.

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children, including in the area of child labor (see Section 6.d.). It established prison sentences of up to 3 years for persons convicted of child abuse.

In September the Government sponsored its eighth annual Children's Congress in Tegucigalpa, at which children from across the country discussed issues of national interest. For the first time, several departmental capitals hosted similar meetings of local children simultaneously.

*People with Disabilities.*—There are no formal barriers to participation by an estimated 300,000 disabled adults 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 disabled persons to government buildings or commer-

cial establishments. In April the Government reactivated the National Council for the Treatment of the Disabled Minor to coordinate assistance to an estimated 800,000 disabled youths and appropriated about \$1.3 million (20 million lempiras) to fund its activities.

*Indigenous People.*—Some 450,000 persons, constituting 11 percent of the general population, are members of various indigenous groups. These small communities of indigenous people have little or no ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous land rights are communal. While the law permits persons to claim individual freeholding titles, this is difficult to accomplish in practice. Tribal lands often are defined poorly in documents dating back to the mid-19th century and, in most cases, lack any legal title based on modern cadastral measurements. The Government makes all decisions regarding exploitation of timber resources on indigenous lands, often over strenuous tribal objections.

The lack of clear title by indigenous groups to public lands that they occupy often leads to conflicts between such groups and various government entities. However, such disputes are equally common between the Government and nonindigenous groups, and the Government is working with various indigenous groups on management plans for public and tribal lands that they occupy. In the absence of clear land titles and unequal access to legal recourse, indigenous groups also are vulnerable to frequent usurpation of their property rights by nonindigenous farmers and cattle ranchers. Expanded coverage of the national cadastral registry, property titling, and government land registries is reducing this vulnerability.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently causes indigenous groups to attempt to regain land through invasions of private property, which usually provokes the authorities into retaliating forcefully. The Government generally is responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential nonindigenous groups.

In 1997 after a month of nationwide protests by indigenous organizations that included a hunger strike, the Government signed a 22-point agreement with representatives of various groups that made available 9 initial land grants of about 22,000 acres each to different tribes, granted some contested land titles outright to indigenous petitioners, and set aside about \$13,000 (200,000 lempiras) in government funds for indigenous housing. The Congress also created a commission to study indigenous land claims, which often conflict with the claims of small farmers, but the commission was largely inactive. Since 1997 the Government has distributed tens of thousands of legal titles encompassing hundreds of thousands of acres of land to indigenous persons. In September the Congress appropriated about \$1.7 million (25 million lempiras) to purchase land for distribution to the indigenous Chorti community, plus an additional \$1,267,000 (19 million lempiras) in October for its general land redistribution programs. Indigenous groups nonetheless charged that the Government had failed to fulfill its commitments under the 1997 agreement.

Members of the Black Carib and Garifuna indigenous groups, backed by international supporters, objected strenuously to a proposed constitutional amendment that would permit foreigners to own and develop land for tourism within 25 miles of the country's coasts and land frontiers. The amendment was approved on its first reading in 1998 but failed to obtain a constitutionally required second approval in 1999, following an indigenous demonstration in October 1999, that led to a violent clash near the presidential offices (see Section 2.b.). The amendment appears unlikely to be considered again in the near future.

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias, ostensibly as part of a reorganization of the Ministry; however, indigenous groups claimed that Sanchez had been fired for investigating reports of violations of indigenous rights too diligently (see Sections 2.b. and 4).

Indigenous groups petitioned actively during the year for the Government to carry out more effective investigations into dozens of murders of indigenous leaders that date back to the 1970's, including the deaths in March of four Chorti men in Copan (see Section 1.a.).

In August various indigenous groups convened a First Conference of National Solidarity in Tegucigalpa in preparation for the World Conference Against Racism, to be held in South Africa under U.N. auspices in 2001.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the legal right to form and join labor unions; unions are independent of the Government and of political parties. Most

peasant organizations are affiliated directly with the labor movement. Unions frequently hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in recent years.

The International Labor Organization (ILO) notes that various provisions in the law restrict freedom of association, including the prohibition of more than one trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership.

The labor movement is composed of three national labor organizations: the General Council of Workers (CGT), the Confederation of Honduran Workers (CTH), and the Unitary Confederation of Honduran Workers (CUTH).

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities respect in practice. However, the civil service code denies the right to strike to all government workers, other than employees of state-owned enterprises. The ILO has reported that federations and confederations are prohibited from calling strikes and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike; the ILO asserts that these requirements restrict freedom of association. Public sector health care employees conducted illegal work stoppages during the year.

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, and neutralize genuine, representative trade unions.

In May dissident members of some 40 labor, peasant, and social organizations formed a Popular Bloc ("Bloque Popular") whose immediate goals were to pressure the Government to implement social reforms and cease its efforts to privatize inefficient state-owned enterprises. During the second half of the year, the Bloc conducted a series of nationwide, 1-day work and traffic stoppages that brought the Government, the private sector, and organized labor to the bargaining table to negotiate a national wage increase outside the formal framework of the annual minimum wage talks, which normally are held each December (see Section 6.e.).

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; collective bargaining agreements are the norm for companies in which workers are organized. 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. 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. However, once a union is recognized, employers actually dismiss relatively few workers for union activity. Nonetheless, such cases serve to discourage workers elsewhere from attempting to organize.

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 took action 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. 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 informal blacklisting occurred in the privately owned industrial parks, known as maquiladoras. When a union is formed, its organizers must submit a list of initial 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. The Ministry of Labor has not always been able to provide effective protection to labor organizers. There were credible reports, particularly in the export processing zone (EPZ) sector, that some inspectors had sold the names of employees involved in forming a union to companies that then dismissed union organizers before the Ministry of Labor could recognize the unions.

The same labor regulations apply in the EPZ's as in the rest of private industry. Unions are active in the Government-owned Puerto Cortes free trade zone (7 of 11 maquiladoras there are unionized), but factory owners have resisted efforts to orga-

nize the privately owned industrial parks. The Honduran Association of Maquiladores (AHM) routinely sponsors seminars and other meetings between its members and major labor groups in order to reduce potential tensions within the industry. At year's end, 54 of the country's 434 maquiladoras were unionized, and 26 of those plants operated under collective bargaining agreements.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Although local unions were not consulted during the drafting process and have no formal role in its implementation, this code nonetheless represented a public commitment by apparel manufacturers to abide by local laws and regulations governing their industries. It provided a starting point for a dialog among the AHM, organized labor, and the Government, which formed a Tripartite Commission that meets on a monthly basis to discuss and facilitate solutions for labor problems. The AHM often serves as an informal arbiter of labor disputes between its member companies and their workforces. The attitude of the Government towards organized labor in the EPZ's is the same as in other industries.

In a number of maquiladora plants, workers have shown little enthusiasm for unionizing, since they consider their treatment, salary, and working conditions to be as good as, or better than, those in unionized plants. In the absence of unions and collective bargaining, several EPZ plants have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Other EPZ plants 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. In November Worldwide Responsible Apparel Production (WRAP), a private sector initiative to improve working conditions in maquiladoras around the world, granted its first overseas certifications of compliance with WRAP principles to two local companies, Cross Creek de Honduras and Kellwood de Honduras.

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code and expect the problem to continue until the Ministry of Labor is reorganized to make it more efficient. 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 has sought to address these deficiencies by requesting increased funding from the Flores administration, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by opening more regional offices to facilitate worker access to Ministry of Labor services, and by conducting a painstaking, ongoing review of the Labor Code within the Tripartite Commission.

A 1995 Memorandum of Understanding (MOU) between the Ministry of Labor and the Office of the United States Trade Representative calling for greater enforcement of the Labor Code has resulted in some progress. However, labor unions charge that the Ministry of Labor has not made sufficient progress towards enforcing the Code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August and September, the Government reaffirmed its commitment to abide by the terms of the 1995 MOU and to take additional steps to strengthen enforcement of the Labor Code.

Kimi de Honduras, a South Korean-owned maquiladora with a history of labor troubles, closed its doors in May and laid off over 600 employees, most of whom were women. Former Kimi employees complained that severance payments made by the company did not meet requirements stipulated by the Labor Code, but a Ministry of Labor examination of the company's calculations found Kimi's severance payments to its former workforce in order.

In July 1999, workers at Yoo Yang, another South Korean-owned maquiladora, sought to establish a union for all maquiladora workers. Both the Yoo Yang employees and the Ministry of Labor missed various deadlines stipulated in the Labor Code for the processing of the workers' petition, which the Ministry of Labor invalidated in April because the Labor Code precludes the creation of industrial unions once individual companies in a given industry become unionized. In July Yoo Yang employees submitted a new petition for recognition as a company union to the Ministry of Labor, which declined to rule definitively on the petition because of alleged irregularities contained in the workers' application for juridical recognition; in the proc-

ess, the Ministry of Labor again missed several processing deadlines for labor petitions established by the Labor Code. The irregularities were addressed, and in December the Ministry of Labor granted union status to Yoo Yang employees.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution and the law prohibit forced or compulsory labor, and this applies equally to children; however, there were credible allegations of compulsory overtime at EPZ plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector. The legal prohibitions apply equally to children, and there were no official reports of such practices in the area of child labor (see Section 6.d.).

*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 15 years of age is permitted to work with parental and Ministry of Labor permission. The Children's Code prohibits a child of 14 years of age or younger from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year.

The Ministry of Labor cannot enforce effectively child labor laws outside the maquiladora sector, and violations of the Labor Code occur frequently in rural areas and in small companies. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 350,000 children work illegally. Significant child labor problems exist in family farming, agricultural export (including the melon and coffee industries), and small scale services and commerce. Many children also work in the construction industry, on small family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work in the lobster and shrimp industries, where they provide support to divers from boats while they learn the trade. Hurricane Mitch exacerbated existing child labor problems in every sector of the economy.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain legitimate work permits by fraud or purchase forged permits.) The maquiladoras in recent years have raised their minimum employment age, and some hire only at age 18 or above, reducing the number of legal job opportunities available to persons under 18 years of age.

In September 1998, the Government created the National Commission for the Gradual and Progressive Eradication of Child Labor, which includes government ministries, official family welfare agencies, and local NGO's. In August the National Commission sponsored a public seminar on child labor in the country to assist the Commission in developing a national plan to combat this problem.

Forced or compulsory labor is prohibited, including that performed by children, and there were no reports of its use (see Section 6.c.).

*e. Acceptable Conditions of Work.*—In the aftermath of Hurricane Mitch in December 1998, labor leaders agreed to forgo the customary January increase in the minimum wage in return for a pledge by business leaders to control price increases for basic goods and services. In June 1999, the Roman Catholic Church arbitrated a 25 percent increase in the minimum wage that the Government implemented in July 1999; an additional 8 percent increase took effect in January. The minimum wage in effect prior to July 1999 served as the basis for both increases. Daily pay rates vary by geographic zone and the sector of the economy affected; urban workers earn slightly more than workers in the countryside. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from \$2.33 to \$2.96 (35.00 to 44.50 lempiras) per day, depending on whether the employer has more than 15 employees. The highest minimum wage is \$3.89 (58.30 lempiras) per day in the export sector. All workers are entitled to an additional month's salary in June and December of each 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.

Under the threat of a nationwide work stoppage by the country's three labor confederations (see Section 6.a.), in October the private sector agreed to a monthly wage increase of \$23.33 (350 lempiras) for workers earning up to \$116.60 (1,749 lempiras) per month. A monthly increase of \$10 (150 lempiras) would be retroactive to October 1, and an additional monthly increase of \$13.33 (200 lempiras) is scheduled to take effect on February 1, 2001. This agreement excluded workers in the nonexport agricultural sector, who instead would receive a monthly wage increase of \$10 (150 lempiras) as of February 1, 2001.

Under this agreement, workers earning between \$140 (2,100 lempiras) and \$400 (6,000 lempiras) per month would receive an additional wage increase of \$23.33 (350 lempiras) as of April 1, 2001. This wage increase excluded: Workers receiving a salary increase equivalent to, or greater than, \$23.33 (350 lempiras) through either an individual contract or a collective bargaining agreement taking effect 3 months prior to April 1, 2001; those paid by piecework or based on productivity; microenterprises, agricultural firms, or ranches employing 15 or fewer workers; and workers in medicine or petroleum product sales whose utility margins are regulated by the Government.

This agreement also incorporated various social commitments by the Government, including the establishment of an Economic and Social Council within which the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. The Congress enacted legislation implementing this agreement in December, which obviated any need to hold the formal talks on increasing the minimum wage that had been planned for December. The CTH, which initially opposed the terms of this agreement, conducted a protest strike during the first week of October that only resulted in some success along the country's North Coast.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. 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 health and safety laws, but does not do so consistently or effectively. There are 19 labor inspectors throughout the country. The informal sector is regulated and monitored poorly. For example, divers for shrimp and lobster work in hazardous conditions; the lack of medical facilities in the Mosquito Coast region adds to the problem. Worker safety standards are also difficult to enforce 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 EPZ's and in private industrial parks. There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

In March workers at Chung Sing Textiles, a Taiwanese-owned maquiladora, alleged publicly that the company maintained a clandestine "punishment cell" for employees who violated factory regulations. Separate investigations by the Ministry of Labor and the AHM of those charges failed to develop any evidence of the existence of a punishment cell at Chung Sing. In July a seamstress at Sunny Industries, a Korean-owned maquiladora, lost the effective use of her left hand when it accidentally became entangled in a machine. In a lawsuit filed against Sunny Industries in August, the seamstress alleged that company management for several hours refused to free her hand from the machine for fear of damaging the equipment, then delayed referring her to a public hospital for medical treatment for 8 days because it did not wish to pay her medical expenses.

In August the Government announced its participation in a regional program to improve occupational safety and health conditions throughout Central America. This program aims to strengthen regional labor codes and the enforcement capabilities of the Central American labor ministries in these fields.

*f. Trafficking in Persons.*—The Legal Code includes provisions that prohibit trafficking in persons; however, it is a problem. The Government and Justice Ministry, through its General Directorate for Population and Migration, is responsible for enforcing the country's immigration laws. However, weak police and court systems hinder law enforcement efforts.

Unlike the previous year, there were no reports of aliens smuggled to the United States involving the use of force or sequestration (holding persons incommunicado against their will). The most common practice involves the sequestration of persons until a smuggling fee is paid. If the fee is not paid, the smugglers normally seek retribution by turning such persons in for deportation proceedings. Many times, fees are paid by relatives who fear that smugglers may employ violence against the smuggled persons. The most common practice involving debt bondage is the smuggling of indentured persons, through the country from China or South America, whose smuggling fee is paid by an employer in the United States in return for free or lowpaid labor. There were two such cases, involving a total of seven persons.

In January Covenant House of Honduras asserted that some 250 Honduran children in Canada had been coerced into prostitution or the transportation of illicit

narcotics. An investigation of those charges was ongoing at year's end. In January Canadian authorities arrested dozens of small-time Central American drugdealers including many Honduran minors. In February the press reported that Honduran authorities were working to repatriate those minors.

In February a judge in San Pedro Sula, Alexa Cubero, was arrested for allegedly kidnaping six minors with intent to sell them to persons unknown; this case had not come to trial at year's end. In July the Government announced that it was working with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In September a local children's rights group charged that 498 children had been reported missing since 1986, including 22 children during the year. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000.

The Government does not provide economic aid to victims or potential victims of such crimes. However, in March the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Honduras. With the assistance of several international organizations, the Government hoped to be able to reinsert up to 4,000 persons into society each year.

## JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; a third major party was established in late 1995. Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in December 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and supporting the JCF. The JDF has no mandate to maintain law and order and no powers of arrest. The Ministry of National Security and Justice oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. The trade-dependent economy contracted (by 0.5 percent) for the fourth consecutive year in 1999. In 1999 annual per capita income was \$2,531, but there is 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 extrajudicial killings and beatings and carried out arbitrary arrests and detentions.

Although the Government moved to punish many of those police involved, continued impunity for police who commit abuses remains a problem. Police investigations often were hampered by lack of witnesses, and bottlenecks in the judicial systems cause long delays in resolution of criminal cases. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. The judicial system was overburdened, and lengthy delays in trials were common. There were allegations that citizens' privacy rights were infringed upon. Violence and economic discrimination against women remained problems. There were cases of societal discrimination against disabled persons and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor is a problem. Mob violence against those suspected of breaking the law remains a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings during the year.

However, there were two killings involving politically connected victims that produced allegations of possible political motivation. On December 6, unknown assailants shot and killed an organizer for Sharon Hay-Webster, a PNP Member of Parliament, in front of Hay-Webster's constituency office in South Clarendon, after a party event. On December 12, a PNP area leader was found strangled in St. Andrew parish. One Member of Parliament said that the victim had been threatened and that he was "sure she had been eliminated for political reasons," but another Member of Parliament contended that constituents had killed her in a dispute over jobs in a public works project. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections (see Section 3).

The police frequently employed lethal force in apprehending criminal suspects. During the year, there were 140 deaths, including those of 11 police officers, during police encounters with criminals. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faces a crime situation with a homicide rate exceeding 30 per 100,000 persons. Well-armed gangs trafficking in narcotics and guns control many inner-city communities. The gangs are often better equipped than the police force and have conducted coordinated ambushes of joint security patrols. There have been targeted assaults against police officers and their families.

In February police killed a 20-year-old man in Farm district, Clarendon parish. The police claimed that they encountered a group of men, were fired upon, and returned fire. At that point, the man was hit. However, residents said that the police came upon the group, began firing indiscriminately and hit the victim. The incident led to 2 days of violent protests in May Pen, Clarendon's capital, which subsided when the area's parliamentarian visited and appealed for calm. In May the police concluded their investigation and forwarded it to the Public Prosecutor's office for action. In September the authorities brought murder charges against a policewoman involved in the incident; at year's end she awaited trial.

On April 25, television stations broadcast news footage taken by an independent cable operator that showed a group of armed police officers surrounding a house in pursuit of an alleged gang leader, who was shot and killed by a police superintendent a few moments later. The videotape did not show the shooting; however, the footage of a woman crying for help and a violent scuffle in a doorway stirred much controversy and led to a confrontation on April 27 between heavily armed gunmen and the police in a volatile area of Kingston. Two policemen were killed and several injured in a prolonged gun battle; one gunman was also killed. In a press conference immediately after the outbreak of violence, security force leaders criticized Jamaicans for Justice, a nongovernmental organization (NGO) advocating human rights, for politically motivated involvement in the controversy (see Section 4). During the press conference, the Police Commissioner also criticized a journalist for questioning possible political motivation behind the violent events (see Section 2.a.).

The JCF has undertaken an initiative of "community policing" in certain areas to address the problem of longstanding antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. In July the Government established a special police body, the Bureau of Special Investigations, specifically to address police shootings. This group supplements the JCF Office of Professional Responsibility, which investigates police corruption and other misconduct, and the civilian Public Complaints Authority that oversees investigations of the other two bodies and can initiate its own investigations. In April a prominent human rights activist assumed the newly created position of human rights advisor to the Minister of National Security and Justice. She has been engaged in educating JCF trainees as well as junior officers to respect citizens' rights. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Following a police investigation, in September 1999 the Public Prosecutor's office charged a police sergeant with murder for the April 1999 killing of an off-duty JDF soldier during island-wide protests. A preliminary hearing found that there was sufficient evidence to proceed to trial; at year's end, the case was still before the courts.

The authorities also brought murder charges against a police officer for the death of a taxi driver killed when police fired on a taxi carrying passengers in Kitson town in June 1999. The case was still in preliminary hearings at year's end.

On August 21, 1999, nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a road-

block near his home after curfew. Gayle died as the result of a ruptured abdomen; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, in March the Director of Public Prosecutions ruled that there was not sufficient evidence to bring charges against specific individuals for Gayle's death. The police opened a new investigation of this incident, completed it in April, and resubmitted the results to the Public Prosecutor's office. The police investigation did not uncover any new information and recommended that the case be closed.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were 8 known vigilante killings during the year, compared with 9 in 1999 and 16 in 1998. Official investigations into such killings generally do not uncover information, since the persons and the community involved usually band together to intimidate potential witnesses.

*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.

In June police fired on a minibus carrying 16 passengers when the driver failed to stop at a roadblock. The police reported that they had received reports of gunmen on the bus. After the bus sped away, the police pursued and fired on it. One passenger took off his white shirt and waved it out a window, shouting that passengers were on the bus, but had to duck back inside when the police continued shooting. Six persons were injured, including two students. Two policemen involved in the incident were removed from front-line duty and more training was mandated for police in the proper use of firearms. The police concluded an investigation into the incident and sent it to the Public Prosecutor's office for action.

In December 1998, the court of appeal announced that flogging could not be imposed as a punishment because the legislative authority for it had expired. This sentence was used rarely; prior to 1994, no sentence of flogging had been imposed for 25 years.

There were reports that police sexually harassed women (see Section 5).

A Human Rights Watch (HRW) report published in July 1999 detailed frequent and credible allegations of police abuse, specifically in lockups, including severe beatings, mock executions, and rape. The conditions in these lockups are harsh, with severe overcrowding, intermittent meals, and poor lighting, ventilation, and sanitation. HRW noted that the Government must undertake a systematic effort to curb police abuse effectively and bring sanctions against officers who commit abuses. The police have acknowledged the problem and have stated they are trying to address it by establishing a police code of conduct and by increasing human rights training. The police must call a legal aid attorney when they detain a person.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. During the year, the Government secured the services of a dentist for the prisons. The Government also outplaced food services for the prisons.

In May a riot at the St. Catherine's district prison led to reports of beatings by guards and JDF soldiers of 300 inmates. The JDF soldiers had been in charge of prison security at St. Catherine's following a work stoppage by guards in January (see Section 6.a.). Guards and soldiers fired into cells, but caused no injuries. Prisoners alleged that they were upset with being given spoiled food, and that the guards and soldiers retaliated against them when they refused to eat it. Prison officials contended that the disturbance developed during a search of cells for weapons and contraband (including cellular telephones brought in with the acquiescence of certain guards). There were also reports that the prisoners were staging a riot in conjunction with another prison, coordinated by telephone, in order to facilitate a jailbreak. Many prisoners had to wait days for medical attention following these events.

In June the Government convened a one-person Commission of Inquiry into the incident; the JDF initiated its own internal inquiry. A prison doctor testified that he saw 15 guards and soldiers repeatedly club and kick a handcuffed inmate, and that only his presence prevented the inmate from being killed. The doctor has since been reassigned. A sentry from a private security company also testified to witnessing beatings. There were also reports that inmates took a JDF soldier hostage, and the soldiers acted to recover him. In July the Commissioner concluded his work but had not reported his findings by year's end. The authorities did not bring criminal charges against any of the guards or soldiers.

A separate prison for women—the Ft. Augusta Women's Prison—is housed in a 19th century fort. Poor sanitary conditions are the norm, although far less so than

in the men's prisons because there is less overcrowding. Ft. Augusta is also safer and does not have the violence found in the men's prisons.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles are held with adults. The July 1999 HRW report criticized the conditions in which juveniles are held. HRW noted that the Government responded quickly to remove some children from lockups. The report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lockups where they were victimized by adult prisoners.

In July the court of appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the 1951 Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison.

In 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, and the police continued to arrest and detain citizens arbitrarily. In 1997 the Jamaican Bar Association (JBA) protested that the police unlawfully were detaining and fingerprinting groups of citizens in poor, inner-city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued; however, both the JBA and the Independent Jamaica Council for Human Rights state that the practice continues. In July 1999, police rounded up 52 men from the Grant's Pen area of Kingston after civil unrest erupted there. The men reportedly were fingerprinted, photographed, and then released without being charged. A class action civil suit was brought and was pending at year's end.

In March a three-person Commission of Inquiry was convened to investigate the detention and forced transport in July 1999 of at least 25 persons (many of whom were reportedly mentally ill), who were living on the streets in a Montego Bay business district. In October 1999, the authorities had charged three persons (including a police inspector and two public sector employees) with false imprisonment and assault, but later dropped the charges against the police inspector when he turned State's witness in the inquiry. In September the commission presented its recommendations, among them that the victims be granted \$500 (J\$20,000) per month for life. The Government indicated that it intended to set up a trust for that purpose but had not yet done so by year's end. The police inspector said that he was under orders from his superiors, a claim the commission rejected as perjured. Although it was believed widely that the police were involved and acted at the behest of Montego Bay merchants and with the acquiescence of the local government, the commission exonerated the Montego Bay mayor and parish council. The commission named the police inspector and civil service truck driver as key conspirators and criticized the local head of public works for instituting a coverup. The two public sector employees were awaiting trial at year's end.

The law requires police to present a detainee in court within 48 hours of arrest, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. The Government attributed this circumstance to an overburdened court system that cannot accommodate large numbers of such presentations in a timely manner. Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation. In effect this constitutes an additional prison term for indigent foreigners.

The Constitution prohibits forced exile, and no instances of exile occurred.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, which exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries 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. This appeal process results in frequent delays. The Constitution allows the Court of Appeal and the Parliament to refer

cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. The Government initiated a night court in 1995, which has had some success in reducing the backlog of cases. Donations of computers are also expected to assist the courts in this regard.

The defendant's right to counsel is well established. In February the Government increased salaries for attorneys appointed by the State, and in April it created the position of Public Defender, to bring cases for individuals who have had their constitutional rights violated. The defender's office would contract private attorneys to represent clients. However, as of year's end, no cases had been brought as the defender's office was still securing funds.

In May legal aid was expanded to include prisoners charged with any offenses, except those covered by certain provisions of the Money Laundering Act or possession or trafficking of narcotics under the Dangerous Drugs Act. Although the authorities assert that those who commit such offenses can afford counsel, the Jamaican Bar Association has criticized this as presuming guilt.

During the Commission of Inquiry into the beatings of prisoners at St. Catherine's district prison in June (see Section 1.c.), the judge ruled that a human rights group could not take notes during the proceedings. A Supreme Court judge later overturned this ruling.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary intrusion by the State into the private life of an individual; however, there were allegations of unauthorized wiretapping by the police. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search of a person on board or disembarking a ship or boat without a warrant if a police officer has good reason to be suspicious. In practice the police conducted searches without warrants.

In October the media reported allegations that the police wiretapped the telephones of the Prime Minister, two Cabinet members, and other senior officials. Only the Prime Minister has the authority to order wiretaps, and on October 24, the Prime Minister stated that his last authorization for wiretapping had been in April, for 14 lines associated with 12 different individuals suspected of trafficking in firearms and narcotics. The head of the Special Intelligence Unit, which the press alleged had carried out the wiretaps, denied that his unit placed wiretaps on any telephones. At year's end, it was still unclear whether any wiretaps had been put in place. In December the Government introduced a draft Interception of Communications Act, which would place authorization for wiretapping in the hands of the judiciary.

#### *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 respects these rights in practice.

The four largest newspapers, all privately owned, regularly report on human rights abuses, particularly those involving the JCF. Foreign publications are available widely. The Government privatized the Jamaica Broadcasting Company in 1997, and the television station and two radio stations it operated became privately owned. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and available through satellite antennas.

In an April 27 press conference, the Police Commissioner criticized a journalist who raised a question about political motivation behind a violent confrontation that occurred the previous day (see Section 1.a.). On the following day, the same journalist was confronted by a police officer who pointed his gun inside the journalist's vehicle and asked him what he was doing.

Near year's end, Parliament approved the Corruption Prevention Act, which the Government had reintroduced without clauses that journalists had charged would restrict their ability to report about corruption. The original draft had provided that journalists could be fined up to \$25,000 (J\$1 million) and receive 10 years' imprisonment for publishing information about an ongoing corruption investigation. The new act does not restrict the media from publication.

The Government does not restrict academic freedom.

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

There were numerous community protests against police actions during the year, such as the 2 days of protests in May Pen over a killing by police (see Section 1.a.). A local human rights group organized various rallies, including reenactments of the August 1999 beating of a man by security forces (see Section 1.a.) and the July 1999 abduction of homeless persons (see Section 1.c.). Security personnel generally acted with restraint during public demonstrations.

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

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

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. It is alleged that the police force Rastafarian detainees to cut their hair and surreptitiously give them food that they are forbidden to eat. Rastafarians have no right to prison visits by Rastafarian clergy.

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

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum; it approved one application during the year. The Government established a committee and formal procedures to review claims to refugee status. This committee has denied all claims to refugee status by Cubans and Haitians who have arrived in the country since 1994.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in 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, face substantial influence and pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote.

During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence, such as the beating of voters, and reducing election malpractice, such as the theft of ballot boxes from polling places.

There were two killings of politically connected persons late in the year that produced allegations of possible political motivation (see Section 1.a.), as well as other acts of alleged intimidation.

There are no legal restrictions on the participation of women in politics; however, they are underrepresented in government and politics. Women hold about 13 percent of all political offices and 30 percent of the senior civil service positions. Two of the 16 cabinet members are women, as is the PNP General Secretary.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights is the country’s only formal organization concerned with all aspects of human rights. Jamaicans for Justice is a human rights group created in August 1999 in response to concerns about police impunity; the NGO focuses on the issues of extrajudicial killing and excessive use of force by the police. Government officials generally are cooperative and responsive to the views of human rights organizations.

However, in an April press conference, senior police officials criticized Jamaicans for Justice on the occasion of an outbreak of severe violence (see Section 1.a.). The organization also reported that it received threatening telephone calls at its office following the killing of two policemen that month. The group noted that the police were cooperative in tracing and stopping threatening calls. In a newspaper article, the Minister of National Security and a member of the clergy questioned the sincerity of those defending human rights, claiming that they cared little for police officers killed in the line of duty. The Police Federation labeled the human rights NGO "suspicious," and stated that it would monitor the group's actions closely. Jamaicans for Justice reported that undercover police regularly attend their meetings.

In August Amnesty International (AI) issued a statement to the Government expressing concern for a human rights attorney's safety. The attorney figured prominently in the inquiry into the abduction of homeless persons from Montego Bay (see Section 1.d.) and represented prisoners at the inquiry into beatings at St. Catherine's district prison (see Section 1.c.). AI contended that the attorney fled the country fearing for her life and that she reported death threats, surveillance, and illegal wiretapping from agents of prison authorities. The Police Commissioner stated that the attorney had not notified police of any such threats. The attorney also is wanted by police in connection with charges of fraud brought by a former client.

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

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government largely enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3). Individuals have committed acts of violence against suspected homosexuals; in April a mob cornered a 25-year-old man in a Kingston church and killed him because they suspected that he was a homosexual.

*Women.*—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. Reported incidents of rape and incest have been on the rise, with a 10 percent increase in rapes during the year. The JCF rape investigative and juvenile unit, which is headed by a female deputy superintendent, handles sex crimes.

The Domestic Violence Act of 1995 provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to \$250 (J\$10,000) and/or 6 months' imprisonment.

There have been some reports of sexual harassment of women by the police.

The Constitution and the 1975 Employment Act accord women full legal equality; however, in practice women suffer from sexual harassment and economic discrimination in the workplace. The Bureau of Women's Affairs in the Ministry of Labor oversees programs to ensure the legal rights of women. These programs have had limited effect but have raised the awareness of problems affecting women. In 1996 the Government established a steering committee, charged with creating a Commission on Gender and Social Equity. The committee forwarded its recommendations to Parliament in 1997, which accepted them; Parliament continued to discuss methods of implementation at year's end.

A number of active women's rights groups exist. They are concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media. Their effectiveness is mixed, but the groups were successful in advocating enactment of the 1995 Domestic Violence Act.

*Children.*—The Government is committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the Government's programs for children.

There is no societal pattern of abuse of children. However, a number of reported cases of sexual abuse and incest may point to a growing trend. There were reports of child prostitution in some resort areas. Inducing prostitution on one's premises of a girl under 12 is a felony punishable by life imprisonment; of a girl between the ages of 12 and 16 is a misdemeanor punishable by 5 years in prison. The encouraging of prostitution of a girl under age 16 by a legal guardian is a misdemeanor punishable by 3 years' imprisonment; procuring a girl under age 18 is also a misdemeanor punishable by 3 years' imprisonment. Child pornography is not prohibited

by statute, but it is a common law offense that can be prosecuted as a form of indecency.

The Juvenile Act of 1951 deals with several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section 1.c.).

*People with Disabilities.*—No laws mandate accessibility for the disabled, and disabled citizens have encountered discrimination in employment and denial of access to schools. Several government agencies and NGO's provide services and employment to various groups of disabled citizens. In 1998 the Prime Minister appointed the first blind member of the Senate, an action that despite expectations has not brought tangible benefits to disabled persons, although it helped to increase public awareness related to these issues. In July 1999, an incident in which police rounded up a number of persons (many of whom reportedly were mentally ill) triggered a national debate over police action (see Section 1.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There is a spectrum of national unions, some of which are affiliated with political parties. Approximately 15 percent of the work force is unionized.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Other than in the case of prison guards, there is no evidence of any workers losing their job over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly condemned as overly inclusive.

Beginning December 29, 1999, prison guards conducted an islandwide sick-out to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities put them on forced leave at one-fourth pay beginning in January. In March the Government brought disciplinary charges against the guards and declared the work stoppage illegal. In May court hearings began to examine the charges against the guards on a case-by-case basis; they still were under way at year's end.

On March 30, members of the Junior Doctor Association (JDA) staged an industrial action in which they curtailed their hours in retaliation for nonsettlement of salary negotiations. The Government declared the action illegal and the Supreme Court ordered the doctors back to work. They did not comply but subsequently ended their protest on April 4. The Government brought charges against the doctors who then apologized for their actions. In April the court sentenced the JDA's executive members to 200 hours of community service. The JDA appealed the ruling; in June a higher court overturned the ruling on the grounds that the JDA is not a legal organization and could not be taken to court. In July in response to the ruling, the Government declared that it would no longer conduct negotiations with "nonlegal entities." Unions that represent teachers and government workers feared that this could include them, since they are not officially registered with the Government as trade unions. In protest the three largest registered trade unions boycotted an unrelated meeting with employers and the Government in August. However, there have been no consequences for the unregistered unions following the Government's announcement, reflecting the fact that various other laws and regulations provide for their right to bargain.

Unions maintain a wide variety of regional and international affiliations.

*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 enforce the LRIDA and other labor regulations. All parties are 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 handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Collective bargaining is denied in 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 to the union). The ILO's Committee of Experts (COE) considers that where there is no collective agreement and where a trade union does 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.

Domestic labor laws apply equally to the "free zones" (export processing zones). However, there are no unionized companies in any of the 3 zones, which employ 7,703 workers. Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies, but they do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution does not specifically address the matter of forced or compulsory labor for either adults or children, but there were no reports that this practice exists.

The ILO COE noted that the Jamaica Shipping Act of 1998 did not remove the provision that disciplinary offences of seafarers such as desertion and absence without leave are punishable by imprisonment (involving an obligation to work). The ILO points out that this is incompatible with ILO Convention 105 on the Abolition of Forced Labor and requested that the Government amend the legislation. However, amendments to the law that were enacted in November did not address this criticism.

*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. However, enforcement is uneven. Children under the age of 12 are seen peddling goods and services on city streets. There are also reports that underage children are employed illegally in fishing communities and in prostitution. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. However, due to economic circumstances, thousands of children are kept home to help with housework and avoid school fees. A 1994 UNICEF report stated that 4.6 percent of children below the age of 16 worked to help support their households. In December 1999, the Minister of Labor, Welfare, and Sport gave a speech in which she stated that 23,000 children were engaged in child labor. The Government and UNICEF cooperated on a strategy designed to eliminate child labor, to increase school awareness through poverty alleviation, and on a public awareness campaign intended to combat public complacency. However, these efforts are hampered by economic conditions, lack of resources, and incomplete information on the full extent of the problem.

In September the Government signed a memorandum of understanding with the ILO in preparation to ratify ILO Convention 182 on the prohibition and elimination of the "worst forms" of child labor. The memorandum provides funding and technical assistance to assess the country's child labor situation. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in August 1999, is considered widely to be inadequate to provide a decent standard of living for a worker and family. Most workers are 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 is observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, which are considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service have contributed to the difficulties in enforcing workplace regulations.

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. Industrial accident rates, particularly in the bauxite and alumina industry, remained low.

*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. There were no reports that persons were trafficked to, from, within, or through the country.

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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. On July 2, voters elected Vicente Fox Quesada of the opposition Alliance for Change Coalition president in elections that domestic and international observers judged to be generally free and fair, and which ended the Institutional Revolutionary Party's (PRI) 71-year hold on the presidency. Observers described the election as a historic turning point of the most profound significance and made recommendations for further electoral reform. Fox began his 6-year term on December 1, replacing Ernesto Zedillo. Sporadic outbursts of politically motivated violence continued to occur in the southern states of Chiapas, Guerrero, and Oaxaca. The peace process in Chiapas between the Government and the Zapatista National Liberation Army (EZLN) remained stalled throughout most of the year; however, some progress was made in December after President Fox ordered the dismantling of military checkpoints, submitted to Congress a bill to implement the peace accords, and closed two contentious military posts in Chiapas. In addition, during December the state government released 16 EZLN prisoners and the EZLN, through its spokesman, set 3 conditions for the resumption of dialog. The judiciary is generally independent; however, it occasionally has been influenced by the executive branch. In addition, judicial effectiveness is hampered by inefficiency, a high caseload, and limited resources at almost all levels.

The police forces, which include federal and state judicial police, the Federal Preventive Police (PFP), municipal police, and the various police auxiliary forces, have primary responsibility for internal security. However, the military plays a large role in some law enforcement functions, primarily counternarcotics, and also exercises internal security responsibilities. Elected civilian officials control the police and the military; however, corruption is widespread within police ranks and also is a problem for the military. The military maintains a strong presence in the state of Chiapas and a lesser, but still significant, deployment in Guerrero. Military personnel and police officers continued to commit serious human rights abuses.

The Government continued to deregulate and open the market-based, mixed economy. The gross domestic product (GDP) in 1999 was \$484 billion and the inflation rate was 12.3 percent. Per capita GDP in 1999 was about \$4,974. The economy still is recovering from the 1994 economic crisis, and real wages are less than before the crisis. Leading exports include petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. One-fourth of the population resides in rural areas where subsistence agriculture is common. Income distribution remained skewed; the top 30 percent of the population received about 67 percent of total income, while the bottom 30 percent earned less than 7.4 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remain in several areas and in some states where a poor climate of respect for human rights presents special concern. Federal and state law enforcement officials were accused of committing political and extrajudicial killings. There continued to be credible reports of disappearances. 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. Widespread police corruption and alleged police involvement in narcotics-related crime continued. Prison conditions are poor. The police continued to arrest and detain citizens arbitrarily. Lengthy pretrial detention, lack of due process, and judicial inefficiency and corruption persisted. Threats and attacks on journalists—some reportedly by federal, state, or local authorities—hindered press freedom, and there were reports of some self-censorship. Drug-related killings and violence, particularly in the northern states, continued. Violence and discrimination against women, indigenous people, religious minorities, and homosexuals persisted. Child prostitution and abuse continued. There were credible reports of limits on freedom of association and worker rights. Extensive child labor in agriculture and the informal economy and trafficking in persons are problems. There were increased reports of vigilante killings.

The Government's efforts to improve the human rights situation continued to meet with limited success. Although the Government has sanctioned some public officials, police officers, and members of the military, widespread impunity continues to be a serious problem among the security forces. The Zedillo Government continued to support the National Human Rights Commission (CNDH), and in April 1999, Congress amended the Constitution to grant it greater autonomy from the executive branch. However, the CNDH primarily investigates complaints against federal authorities and has no enforcement powers.

Armed civilian groups operating in the state of Chiapas committed human rights abuses. There continued to be a high incidence of narcotics-related violence, particularly in the northern states, and human rights abuses, allegedly with the assistance of members of the security forces. Guerrilla attacks against government property and personnel continued, but at a lesser rate and intensity relative to previous years.

On December 2, the day after his inauguration, President Fox and U.N. High Commissioner for Human Rights (UNCHR) Mary Robinson signed an agreement on technical assistance in human rights matters. Commissioner Robinson also announced the establishment of a human rights U.N. liaison office to work with human rights organizations to help implement the technical assistance program. Robinson stated that the accord was especially significant because the President himself had signed it on his second day in office in the state of Oaxaca, where there are notable human rights problems.

Shortly before assuming office, President Fox announced the appointment of Mariclaire Acosta, former president of the Mexican Commission for the Defense and Promotion of Human Rights, to the new position of Special Ambassador for Human Rights. Her mission is to ensure that the Government complies with its human rights commitments, and that it distributes its human rights resources effectively.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—Federal and state law enforcement officials were accused of committing political and extrajudicial killings. In past years, the military also was accused of such killings; however, there were no reports implicating the military during the year.

There were some apparently politically motivated killings by security force officials. On June 15, Artemio Arturo Perez, a Democratic Revolutionary Party (PRD) supporter arrested for causing a public disturbance during a PRI political rally in Mixistlan de La Reforma, Oaxaca, died in his jail cell. Perez and his family claimed that PRI party members forced persons to attend the rally, and that Perez was arrested for voicing his disapproval. The prison authorities declared suicide to be the official cause of death, but Perez's family and various human rights organizations claim that he died as a result of torture (see Section 1.c.). On June 21, two family members began a hunger strike to demand action against prison employees Alfredo Reyes, Wilfrido Hernandez Solano, and Luis Faustino Gonzalez for abuse of authority, illegal detention, and torture. The case is under investigation by the Oaxaca state attorney general's office and the state's Human Rights Commission.

In March the president of the Jalisco Human Rights Commission cited several cases of possible police involvement in the deaths of prisoners (see Section 1.c.).

The Durango state Human Rights Commission is investigating the presumed suicide of Jose Manuel Urbina, who was found drowned in a state security facility in June. National Action Party (PAN) deputy Victor Hugo Castaneda Soto questioned the manner in which Urbina was arrested and noted that his body was found in a crouched position, a difficult position to maintain by someone attempting to drown himself.

On July 19, five men with known drug connections were found hanged near El Quelite, Sinaloa. On July 16, according to witnesses, armed men in Federal Judicial Police uniforms kidnaped the five—Fausto Andres Arellano Vidales, Anacleto Valle Garcia, Gaston Horacio Lopez Amarillas, Guillermo Gurrola Gutierrez, and Carlos Lopez Torres—from a store in Mazatlan, Sinaloa. State authorities were investigating the case, including a drug trafficking connection, at year's end.

There were numerous reports of executions carried out by rival drug gangs, whose members have included both active and former federal, state, and municipal security personnel. Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking continued. For example, 27 murders with presumed or proven drug connections occurred in the Ciudad Juarez, Chihuahua area from January 1 to August 31. The modus operandi of the killings has shifted from the kidnappings and disappearances of the mid-1990's to armed attacks

in public areas throughout the city, in which intended targets and innocent bystanders are victims. The police and military were accused of committing serious human rights violations as they carried out the Government's efforts to combat drug cartels.

Although narcotics-trafficking organizations committed many killings, human rights groups allege that security forces are responsible for some killings generally attributed to narcotics traffickers or other criminals, including some of those whose bodies were discovered in Chihuahua in December 1999 (see Section 1.b.). The Association of Families of Disappeared Persons has alleged that the security forces were behind many of the disappearances and has argued that the cases were not investigated properly for that reason.

In October 1999, a group of men armed with assault weapons attacked Acapulco City councilor-elect Marco Antonio Lopez Garcia and his family while they were en route to a PRD election victory celebration. The councilor's son was killed, and the councilor seriously wounded. State authorities charged a PRD activist with the crime and alleged that he was affiliated with the Popular Revolutionary Insurgency Army (ERPI). The suspect later repudiated a confession that he alleged was coerced by torture and was released in November 1999. PRD officials rejected the results of the state investigation as false and called for federal intervention. Human rights observers charged that state and federal authorities used the investigation into electoral violence to repress opposition parties and peasant organizations by linking the political opposition to insurgent groups. The case is unresolved and still open.

There were no new developments during the year in the Federal Attorney General's office's (PGR) investigation into the March 1999 killing in Guerrero of Aurelio Penaloza Garcia, a former state attorney general and advisor to the PRD's unsuccessful gubernatorial candidate, by men dressed in Federal Judicial Police uniforms and armed with automatic weapons. In April 1999, the authorities had charged Bernardino Alvear Villa and Juan Valdivinos Rodriguez in connection with this murder. They have been arrested and were in jail awaiting trial at year's end. An arrest warrant has been issued for Eulogis Palacios.

On April 29, the Morelos state supreme court upheld the state congress's decision to bar former governor Jorge Carillo Olea from holding state office for the next 12 years because of his administration's connection to a kidnaping ring in the state. In March 1999, a court convicted the former Morelos state attorney general, Carlos Peredo Merlo, of allowing the cover-up of the kidnaping, torture, and murder of Jorge Nava Aviles in 1998. He eventually received a sentence of less than 2 years. The court also convicted Cuernavaca's former deputy prosecutor and the former director of the state judicial police on related charges in the same case and sentenced each of them to 3 years and 3 months. The remaining persons accused in this case still are awaiting trial.

There were no new developments regarding the October 1999 death of Cosem Demian Sanchez Sastre, a member of the Zapatista National Liberation Front (FZLN), the political branch of the EZLN, who was found dead in his cell in a Tijuana detention facility. There also were no new developments regarding either the August 1999 case of the arrest of Tamaulipas PGR officials charged with the murder of fellow PGR official Jaime Rajid Gutierrez Arreola or the May 1999 killing of 1 immigrant when federal fiscal police opened fire on a van containing 23 persons.

There were no new developments in the June 1999 case of Mauricio Martinez Hernandez, a municipal worker killed by a police officer in Naucalpan, in the state of Mexico. There were no new developments in the May 1999 attack on indigenous rights leader Heriberto Pazos Ortiz.

There were no new developments in the case of Gerardo Villarreal Rodriguez, who died in Nuevo Leon in 1998, after being tortured by four state police officers; or in the investigation of the 1998 killing of an alleged migrant smuggler, in which seven members of the Grupo Beta police unit were detained.

On May 18, a Chiapas state court convicted the then director of the auxiliary police, former General Julio Cesar Santiago Diaz, and his two chief lieutenants, Roberto Garcia Rivas and Roberto Martin Mendez, of "homicide by omission" and sentenced them to 8 years in jail in connection with the 1997 Acteal massacre. The men were close enough to hear the shootings, but took no action and reported that all was quiet in their area when questioned by state officials. Of the 102 persons detained, 58 now have been convicted and sentenced, although 24 have had their sentences suspended. There are outstanding warrants for 27 others.

On May 10, 14 former police officers involved in the 1997 killing of 6 youths during a police operation in the Mexico City neighborhood of Buenos Aires were convicted in connection with 3 of those killings. The court sentenced 11 officers to the maximum penalty of 50 years in jail and 2 others to 18-1/2 years. However, in September a judge denied an arrest warrant for Moctezuma Ilhuicamina Zaepeda Rodriguez and Jose Lamberto Ponce Lara, the two former leaders of the police

groups implicated in the murders. The same judge also either acquitted or denied arrest warrants for 15 other police officers in September. Investigations were still underway into the killings of the remaining three youths.

The courts have arrested 44 public officials in connection with the 1995 Aguas Blancas massacre of 17 indigenous farmers. Of the 44, 13 former police officers have been convicted and sentenced to 18 years in prison, 9 other former government officials have been convicted and sentenced, and 3 of the accused are fugitives. Fifteen former police officers have been absolved and freed on appeal, as have 7 other former officials. Despite recommendations by the Inter-American Commission on Human Rights (IACHR), the U.N. Rapporteur on Extrajudicial Executions, and the Supreme Court, then-Governor Ruben Figueroa Alcocer has not been investigated or prosecuted for his alleged involvement in the massacre. The Guerrero state government has indemnified the debts of the victims' families, and both the federal and state governments consider the case resolved.

On June 12, seven Chiapas state policemen were killed and one other policeman and a civilian were wounded in an ambush in Las Limas village, El Bosque municipality, Chiapas. On July 26, the Federal Attorney General's office announced the arrests of PRI supporter Alberto Patishtan Gomez and EZLN supporter Salvador Lopez Gonzalez in connection with the ambush on charges of murder, robbery, and possession of illegal weapons. The Federal Attorney General's office charged that Patishtan and Lopez were part of an armed 10-person group that carried out the attack. However, the Fray Bartolome de Las Casas Human Rights Center maintains Lopez's innocence, claiming there is insufficient proof against him.

On July 30, Juan Lopez and Gabriel Luis Hernandez Gomez were arrested in connection with the June 1999 murder of Jose Hidalgo Perez, a member of a politically active family in San Cristobal de Las Casas, Chiapas. They are awaiting trial.

There were no new developments in the January 1999 killing of villagers in Tzacabel, Chiapas.

On February 27, the authorities arrested two suspects for the January 1999 murder of Jorge Aguirre Meza, cofounder of the Sinaloa Human Rights Defense Commission and a mayoral candidate in the municipality of Navolato. The suspects, who reportedly have ties to narcotrafficking, are currently in jail and on trial in Culiacan, the state capital. Arrest warrants for two other suspects were also issued; however, these suspects are in a Mexicali jail on unrelated crimes.

The number of reports of vigilante killings and violence increased during the year, as compared to 1999. For example, on July 30, approximately 2,000 residents of the community Nueva Palestina, Chiapas, put an indigenous man on trial for a robbery and murder and killed him. The state attorney general's office dispatched a team to investigate and to help resolve tensions in the community.

*b. Disappearance.*—There continued to be credible reports of disappearances. The CNDH is working to establish a nationwide database to assist in the identification of unknown remains, some of which may be those of persons who disappeared. According to press reports, the CNDH during the year received 37 cases of presumed disappearances; 19 of those reported missing later were found alive and well. In December 1999, nine bodies were recovered from graves outside Ciudad Juarez, Chihuahua. Six of the nine bodies were identified positively and the remains released to their families in May. Three of the bodies were identified as persons not previously listed among the 224 persons reported missing in the state since 1994. All of the victims are believed to have had ties to drug trafficking in some way. Federal authorities confiscated the ranch where the bodies were found but the courts subsequently ordered it returned to its owner in July. The Chihuahua-based Committee for the Defense of Human Rights alleges that military and police forces are responsible for some of the disappearances. The Association of Families of the Disappeared Persons also has alleged that the security forces were behind many of the disappearances and has argued that the cases were not investigated properly for that reason.

According to the national public security system, there were 607 kidnappings in 1999, 734 in 1998, and 1,047 in 1997. However, kidnaping is an underreported crime. In Michoacan police have broken 89 kidnaping rings since 1996, resulting in 500 arrests, including 49 during the year. On August 18, Mexico City's Legislative Assembly passed a law to impose mandatory minimum sentences of 15 to 20 years for Mexico City public servants convicted of kidnaping. Although 6 kidnappings were reported in Chihuahua State from January to August, all have been resolved and 11 suspects were arrested and remain in custody. None of the suspects detained are public officials.

According to the Miguel Agustin Pro Juarez Center for Human Rights (PRODH), on March 13, gunmen allegedly under the order of local bosses in Ajuchitlan del Progreso, Guerrero, kidnaped Maximino Marcial Jaimes. He has not been seen since. Marcial was a member of an environmentalist organization. According to

PRODH, the press had reported that Marcial was in Almoloya prison, but the prison officially denied his presence there. His whereabouts were unknown at year's end.

According to the January 1999 Human Rights Watch report, many disappearance cases were in fact cases of prolonged detention by security forces. The report detailed incidents that occurred in previous years, and numerous human rights groups credibly asserted that disappearances continued to occur.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, it continues 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. 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 has also been accused of using torture. According to Amnesty International (AI), many victims do not report, or do not follow through on complaints against the police due to fear of reprisals, thereby hampering prosecution of the perpetrators. To combat torture, the Congress passed laws to prevent and sanction torture in 1991 (amended in 1994), adopted the Law of the Defense Office of Mexico City in 1998 and the Federal Public Defense Law in 1998.

In her 1999 annual address, the then-president of the CNDH acknowledged that torture continued to be a serious human rights problem. She cited the PGR and the Defense Secretariat as the main organizations associated with the use of torture. In a report published in July 1999, the U.N. Human Rights Committee expressed concern that laws aimed to prevent torture were inadequate because of the absence of an independent body to investigate allegations of mistreatment. There are persistent reports by nongovernmental organizations (NGO's) of the widespread use of torture by the police and the security forces. In a June 22 report, AI Mexico claimed to have received numerous complaints that indicate that torture is a habitual practice in many areas of the country especially to extract confessions and information in place of police investigations. In October the same organization reported that the legal system permits torture, that torture is practiced in the country, and that urgent action is needed to eliminate it. AI called for legislative and administrative reforms to enforce the laws against torture and eliminate the judicial prerogative that permits the introduction of confessions extracted under torture. Nigel Rodley, the U.N. Special Rapporteur on Torture, reported in January 1998 that torture continued to occur despite the fact that the country had in place an array of legal safeguards. In March Guadalupe Morfin Otero, president of the Jalisco Human Rights Commission (CEDHJ), attacked the state attorney general's office for continuing the use of torture when interrogating prisoners. She cited several cases of possible police involvement in the death of prisoners (see Section 1.a.).

The authorities punish few officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Poorly trained and inadequately equipped to investigate crimes, police officers often attempt to solve crimes by rounding up likely suspects and then extracting confessions from them by force.

In August the police in Nueva Italia, Michoacan, arrested Ivan Ramirez and Israel Moline and allegedly tortured them into confessing to the murder of their friend. One of the youths charged that he confessed only after at least six state police officers had beaten him, semi-asphyxiated him using plastic bags, and damaged his testicles. The youths told the judge that they had been tortured; however, he admitted their confessions as evidence anyway and consigned them to jail. When the friend returned from an unannounced trip 3 months later, the youths were released. The Michoacan State Human Rights Commission charged state legal authorities with fabricating evidence in the case.

On August 4, CNDH report 8/2000 charged that the military falsified evidence against two environmental activists, Rodolfo Montiel Flores and Teodoro Cabrera Garcia, tortured them, violated their rights to due process, and harassed residents in their home village, Pizotla, Guerrero. The military did not respond publicly to the CNDH report. Montiel and Cabrera had been arrested in May 1999 on charges of illegal drug cultivation and illegal possession of arms, and their colleague Salome Sanchez Ortiz was killed by the military. Montiel and Cabrera stated that military personnel tortured them to extract their confessions. The Government stated that on three separate occasions, Montiel and Cabrera confessed to illegal activities, and that tests had indicated that both men had fired a gun. However, the defense team stated that on each of those occasions Montiel and Cabrera were intimidated by the presence of military personnel. Initial medical examinations performed in 1999 by government and CNDH doctors did not find evidence of torture, but a medical examination by independent doctors on July 29 did find physical evidence consistent with

torture. The CNDH recommended that the army conduct numerous internal investigations of its handling of the arrests and detentions. On August 28, a judge sentenced Cabrera to 10 years' imprisonment for illegal possession of arms reserved for the exclusive use of the military. Montiel was sentenced to 6 years and 8 months on the same charge, as well as for possession of arms without a license, and illegal drug cultivation. Defense lawyers cited many irregularities in the judicial process and are appealing the verdict. On October 19, the press reported that the PGR requested that the sentences of Montiel and Cabrera be increased to the maximum of 20 years; however, on October 27, the appeals judge upheld their original sentences.

On April 1, the former president of the Guerrero state PRD, David Molina Francisco, alleged that he was freed after being held hostage for 40 hours by military personnel. Molina claims that he was tortured physically and psychologically, including being beaten and subjected to electric shocks, and interrogated on activities of insurgent groups. The PRD lodged a formal complaint with the Guerrero state human rights commission.

On August 1, the Mexico City human rights commission recommended that the city's attorney general's office investigate the torture of Jose Luis Mendez Briano and Fernando Martinez Beltran, who were arrested by city police on June 24 while making their getaway from a robbery. One of the men was transferred to the hospital for treatment of various injuries.

On July 30, in Ecatepec, Mexico state, auxiliary police discovered four Central American migrants hiding in a rail car. The police allegedly beat them, stripped them of their clothing, and kept them in a cell for several hours, before finally letting them go. The federal prosecutor's office in Ecatepec opened an inquiry into the alleged violations; the inquiry continued at year's end.

State human rights commissions also received reports of torture allegedly committed by police. The CEDHJ charged in September 1999, that the Jalisco state attorney general, Felix Ledesma Martinez, and the mayor of Guadalajara, Francisco Ramirez Acuna, had impeded an investigation into an alleged case of torture to protect high-ranking members of the Guadalajara municipal police force. On January 13, Jalisco state police arrested former armored car guard Jesus Galvan Ortiz in Guadalajara, Jalisco. Galvan claimed that police took him to a house, tortured him, and demanded that he confess to robbing an armored car. Police released him several hours later and never charged him. The house where Galvan allegedly was taken and tortured was later found to belong to the wife of attorney general Ledesma. On February 8, Ledesma admitted to owning the property but denied any knowledge of the alleged torture. Nonetheless, on February 14, citing personal reasons, he resigned from office. The Jalisco CEDH was investigating Galvan's allegations at year's end.

In September 1999, the president of the Mexico City Human Rights Commission (CDHDF), Luis de la Barreda, announced that during the CDHDF's 6 years of existence, the Mexico City attorney general's office (PDJDF) was the subject of the majority of its recommendations regarding torture. The commission made 14 recommendations involving 18 alleged perpetrators; 7 against the PDJDF, 6 against the Director General of Prisons, 3 against the Secretary of Public Security, and 2 against the Director General of Public Health. In its report, the CDHDF noted that it had investigated 44 security personnel for the use of torture. It had 17 of these cases still under investigation, dismissed 5, and had found 22 public officials culpable. However, the authorities did not arrest 11 of those found culpable.

During the year, the Zacatecas state Human Rights Commission issued several recommendations for punitive action against the state police for their habitual use of torture. On August 8, the Zacatecas state legislature requested that Governor Ricardo Monreal Avila order the state attorney general to designate a special prosecutor to investigate the local police for the alleged torture of four persons accused of stealing farm equipment in 1999. On September 20, state prosecutors issued arrest warrants for two state policemen on charges of torture, illegal arrest, and abuse of authority. The prosecutors also announced that they were investigating five other members of the state police, including the state police chief, for their presumed involvement in torture. However, despite the public urging of Governor Ricardo Monreal, neither arrest order had been executed by year's end.

Members of the security forces were charged with committing rape. For example, on June 10, municipal police in Matias Romero, Oaxaca, arrested Rolando Jesus Vazquez Vargas, a sergeant in the 6th artillery regiment, for the rape and beating of Maria de Carmen Dominguez. Two other men are being sought in connection with the same assault. On July 18, Chihuahua state judicial police arrested three soldiers, Ruben Villanueva Sanchez, Eleazar Jimenez Flores, and Rosendo Juarez Zenil, for raping and beating a tourist. A 1998 report by the IACHR described a

definite pattern of rape and sexual assault against women committed by such officials. The Commission stated that some women had been assaulted sexually by law enforcement officials, particularly those in detention, or had been assaulted by others with the officials' consent.

Official corruption and complicity in crime continues to be a source of human rights violations. For example, on May 25 and 26, the authorities arrested two Mexico City judicial police agents, Ahui Omar Castro Hernandez and Gerardo Bustamante Dominguez, and Rene Rodriguez Monroy, a former employee of the city's public security secretariat, on extortion charges. They allegedly demanded \$16,000 (150,000 pesos) from narcotics trafficker Jose Rigoberto Caballero, in exchange for his freedom from city custody. Many citizens distrust the justice system, including law enforcement officials, and are reluctant to register official complaints.

On July 23, workers at a hospital construction site in Ciudad Juarez rioted in protest over mistreatment by police and poor working conditions (see Section 6.e.). According to the workers, one of the underlying causes of the incident was persistent petty extortion by the police.

On August 8, Juan Ramos Lopez, judicial director of the city's Secretariat for Public Security (SSP), lodged a complaint against the PGJDF with the Mexico City human rights commission. Ramos alleged that the PGJDF had been persecuting him since November 1999 when the SSP approached the PGJDF for information on the diversion of funds in the city's auxiliary police force. A PGJDF investigation into the diversion of funds continues, and 26 auxiliary police commanders have been suspended from duty for their involvement in the scandal.

Police abuse and inefficiency hamper investigations. For example, in April a court overturned on appeal the 30-year sentence of Abdel Latif Sharif, convicted in connection with the string of murders of over 200 women since 1993 in Ciudad Juarez, based on lack of consistency in the autopsy reports. Sharif remains in custody and is to receive a new trial. Since his arrest, eight more young women have been kidnaped, raped, strangled, and their bodies dumped in the same areas of the desert where previous victims were found. Four bus drivers are still in detention for allegedly committing the murders while Sharif was incarcerated. The bus drivers claim that they were tortured into confessing, and their case remained under investigation at year's end (see Section 1.c.).

Several human rights organizations and the U.N. Special Rapporteur on Extrajudicial Executions, Asma Jahangir, who visited the country in 1999, believe that the Government has made only limited progress in solving these murders because most of the victims were poor, young women, few of whom had anyone to press the authorities for intensive investigation. However, police incompetence, prosecutorial ineptitude, and lack of investigative resources also hampered the investigation.

To enhance the investigation into the murders in Ciudad Juarez, the Chihuahua attorney general's office appointed a special prosecutor for crimes against women in 1998. The special prosecutor's office has 65 cases in process, related to 67 of the victims; the remains of 23 of the victims required extensive scientific examination to identify them. In August the court system in Ciudad Juarez had a total of 145 cases in process against 103 persons for murdering women, including for motives of domestic violence, crimes of passion, drug connections, and revenge.

Some law enforcement personnel have been known to have drug trafficking connections. For example, in November 1999, 4 former Tamaulipas state police officers were among a group of 10 men, including narcotics trafficker Osiel Cardenas-Guillen, who confronted 2 international law enforcement officers with automatic rifles on a busy street in Matamoros, Tamaulipas. Carlos-Guillen and his associates went into hiding and are being sought by the authorities.

On June 21, the PGR arrested Jose Ricardo Rodriguez Torres, Ruben Cortes Flores, Miguel Angel Crespo Zoloeta, and Carlos Pineda Bernal, four Tijuana-based agents of the PGR's counternarcotics agency. They were charged with drug trafficking.

On August 8, the newspaper *La Jornada* reported that the internal affairs department of the PGR sanctioned 3,060 public servants between December 1996 and March 2000 for involvement in illegal activities, especially drug trafficking.

Narcotics-trafficking organizations also included corrupt public officials. The former governor of Quintana Roo, Mario Villanueva Madrid, is suspected of having aided narcotic trafficking organizations. He fled shortly before his term of office expired in 1999 and still was being sought by federal authorities at year's end. Villanueva Madrid claims that he is innocent and the victim of a political frame-up.

Government officials have conceded the country's serious human rights shortcomings. UNHCHR Robinson, who visited the country in November 1999, said that

President Zedillo's admission that serious human rights violations occur in Mexico was a positive sign. In an effort to fight corruption and provide better public security, the Government created the PFP in 1999. The 12,000-person force includes approximately 5,000 transferred military personnel and another 6,000 from the former federal highway police. The inclusion of military personnel, who take a leave of absence from the armed forces while serving in the PFP, led to criticism from some human rights NGO's.

Police extorted money from street children, at times abused homosexuals (see Section 5), and violated the rights of illegal immigrants (see Section 2.d.).

Francisco Hernan Cortes, one of the presumed attackers in the May 1999 attempt on the life of PRD Senator Hector Sanchez Lopez and two companions, remains in jail awaiting trial in Oaxaca.

Prison conditions are poor. Many prisons are staffed by undertrained and corrupt guards, and some lack adequate facilities. Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. The penal system comprises 444 facilities: 5 federal penitentiaries, 8 federal district prisons, 329 state prisons, and 102 municipal and regional jails. 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. Antonio Sanchez Galindo, technical director of the Council for Minors of the Secretariat of Government, estimated that the prison population is 50 percent over capacity. The prisons with the largest overpopulation are: Reclusorio Norte in Mexico City-Capacity 4,506, actual population 7,419; Reclusorio Oriente in Mexico City-Capacity 4,295, actual population 7,441; Reclusorio Sur in Mexico City-Capacity 2,914, actual population 4,485; La Mesa in Tijuana-Capacity 1,716, actual population 5,982; Ciudad Juarez-Capacity 1,310, actual population 2,740. In Ciudad Juarez, Chihuahua, the state prison increased its capacity by 400 beds to 1,240, but the facility still has 2,720 inmates. The authorities in Chihuahua State have approved the construction of a second penitentiary in Ciudad Juarez to ease overcrowding and begun construction on a new juvenile detention facility, which is scheduled to be completed in 2001.

In 1998 Federal District prison director Carlos Tornero Diaz admitted that guards supply 40 percent of the illegal drugs smuggled into the prisons, and that inmates lacked sufficient drinking water. While the authorities investigate some prison officials for abusing prisoners, they more commonly dismiss those who commit abuses or charge them with only minor offenses. Drug and alcohol abuse is a problem in prisons. A Baja California State official estimated that 80 percent of the state's prison population are addicted to drugs. Conflicts between rival prison groups involved in drug trafficking continue to occur. On September 5, Federal Judicial police stormed the Torreon prison to end what they claimed were 20 years of self-government by the prisoners. In the process, the police seized munitions, drugs including cocaine and marijuana, and alcohol. In May doctors at a prison in Nuevo Laredo resigned, citing unhealthy conditions such as inadequate food and water as the reason for their resignations. They stated that conditions such as mange, AIDS, and tuberculosis are known to the authorities, who fail to take any action to treat and segregate sick inmates.

The Oaxaca Human Rights Networks reported that Eugenio Almaraz Garcia, a Zapotec man, died on February 29 from presumed neglect by the director of the Pochutla, Oaxaca prison. According to his family and the Mexican League for the Defense of Human Rights, Almaraz died of septic shock, multiple organ failure, and tuberculosis after being denied medical attention 6 days before his death. The Oaxaca state Human Rights Commission is investigating the case.

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. Corruption and poor conditions led to riots and escapes. On September 30, about 60 detainees at the Juarez Juvenile Detention Center were involved in a clash with authorities. The troubles began when repeat offenders being held in isolation allegedly exposed themselves to guards and refused to return to their cells. Ten ringleaders then incited others to join in the disturbance. Rioters broke lights and tore down power cables before being subdued by police reinforcements using tear gas.

On May 17, the PFP intervened in the Penitentiary Number 1 in Nuevo Laredo, Tamaulipas to regain control of the prison, which had been exercised by a narcotics-trafficker prisoner, Guillermo Martines.

On September 5, close to 1,000 PFP personnel intervened in the state penitentiary in Torreon, Coahuila, to break the control established by prisoner Martin Gallardo.

In August the CNDH issued a recommendation to the governor of Tabasco and requested an immediate investigation into the administrators of the state penitentiary. Prison riots at the state penitentiary on October 22 and November 3, 1999, left 11 prisoners dead. The CNDH report criticized Tabasco prison administrators for their negligence in not caring for the prisoners during severe flooding and for failing to maintain order, impartiality, and the physical integrity of prisoners.

Women are held separately from men and juveniles are held separately from adults.

Although the Constitution calls for separation of convicted criminals from detainees held in custody, in practice these requirements were violated routinely as a result of overcrowding.

There is no specific law or regulation to allow human rights organizations or other NGO's to visit prisons; however, in practice such visits are permitted in certain situations, especially by the CNDH. For example, the International Committee of the Red Cross (ICRC) is able to visit prisoners in Chiapas due to a July 1998 agreement with the Government. For permission to visit prisoners in Oaxaca and Guerrero, the ICRC must apply to the Ministry of Foreign Relations.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily. Arbitrary arrest and detention were 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 1999 Human Rights Watch reported that a great number of disappearances eventually are found to be cases of arbitrary detention (see Section 1.b.).

Reports of arbitrary detention occur with greatest frequency in Tabasco, Guerrero, Chiapas, the Federal District, and Oaxaca. States' attorney general personnel, state police, and the army are the most frequent abusers of detention laws.

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. These periods can be extended if the parties agree. In practice, judicial and police authorities frequently ignored these time limits. Criminal defendants often were held with convicted prisoners. Furthermore, many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges. Those able to pay were released from custody. Corruption is rampant throughout the system. For example, in May two judicial police agents along with a former city government employee were arrested on extortion charges (see Section 1.c.).

Judges often failed to sentence indigenous detainees within legally mandated periods. In 1996 the CNDH reviewed 8,661 files of indigenous persons who were detained and recommended the immediate release of 1,727 persons. Of those states with the largest numbers of indigenous prisoners, the CNDH reviewed 2,222 cases in Oaxaca, and recommended 407 releases, of which 296 had been accomplished by the end of 1998; 1,219 cases in Veracruz, with 331 recommendations for release and 245 releases; and 639 cases in Puebla, with 157 releases recommended, and 61 releases. In November 1999 the CNDH signed an accord with Secretariat of Government, the PGR, the Federal Institute of the Public Defense office, and the National Indigenous Institute (INI), to develop a program for the anticipated liberty of indigenous prisoners in federal prisons. Since that time, the CNDH has developed a database of 2,314 registered cases, and 381 persons were released during the year.

Federal prosecutors continued to adhere to the recommendation by the INI that they drop charges against first-time offenders accused of drug cultivation, as drug traffickers often forced indigenous defendants, who were not made aware of the legal significance of their actions, to grow the crops. The INI also supports programs to provide translators for indigenous defendants and to assist them in obtaining bail bonds.

Some human rights groups have claimed that activists arrested in connection with civil disobedience activities are in fact political detainees. The Government asserts that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

The law does not permit forced exile, and it is not practiced.

*e. Denial of Fair Public Trial.*—The judiciary is generally independent; however, on occasion it has been influenced by the executive branch, particularly at the state level. Corruption, inefficiency, and disregard of the law are major problems. Corruption and impunity are serious problems and tend to benefit the wealthy and powerful. Lack of training also is a problem. Judicial reforms have begun to address some of these problems, but full resolution of these problems awaits more extensive and systemic judicial reform. In February and March 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. On August 11, the International Jurists Commission reported that judicial authority has been diminished severely by the procedural immunity enjoyed by officials of the State, particularly the military.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Efforts to implement the 1995 judicial reforms continued. During the year, the Federal Judicial Council strengthened administrative control over the judiciary, investigated cases of corruption, and removed some corrupt judges. In addition, in September the Institute for Professional Formation of the Mexico City Attorney General's office initiated new workshops and courses directed at officials who deal with prosecutions, including the prosecutor's office, official secretaries, judicial police, and police group leaders. The course material encompassed case management, scientific investigation techniques, legal framework, and evidence collection. However, in a report released in December, Human Rights Watch asserted that deficiencies in the administration of justice were still a major concern, and repeated its 1999 statement that judicial reforms have done little to improve the problems that plague the justice system. The December report stated that prosecutors not only ignored abuses by police but also fabricated evidence. Judicial oversight was seriously inadequate as the courts accepted evidence obtained through human rights violations, and judges cited legal precedents that weakened human rights protections.

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. Court officials may add notarized documents (that are not authenticated) into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although by special motion the victim may have access to it.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government respects 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.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often do not assure adequate representation for many poor defendants. Moreover, the public defender system is not adequate to meet the demand, although improvements in salaries and benefits have ameliorated this situation. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings. Prosecutor salaries and benefits vary by region and agency. Federal prosecutors are usually better paid than state ones.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The law calls for translation services to be available at all stages of the criminal process; however, the courts do not routinely furnish translators for indigenous defendants at all stages of criminal proceedings, and thus defendants may be unaware of the status of their cases. Provision of translators to non-Spanish speaking defendants, including indigenous ones, is provided for but poorly implemented, resulting in prisoners being convicted without fully understanding the documents they have been required to sign. The CNDH, through the Fourth Inspector General's office, has a program to assist incarcerated indigenous defendants. The INI also has judicial assistance programs for indigenous defendants and provides counsel on their behalf. The INI also distributes legal, educational, and informational material in indigenous languages.

A particularly egregious abuse of due process is the prosecution's ability to use evidence gathered by means of torture. While torture itself is a criminal act, judges routinely allow statements coerced during torture to be used as evidence against the accused (see Section 1.c.). For example, in August a court convicted two environmental activists in Guerrero although they allege that they had been tortured into signing confessions (see Section 1.c.).

The law does not require civil trial of soldiers involved in civil crimes, and the military continues 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 transfer immediately of the case to mili-

tary jurisdiction. Although the military retains jurisdiction over its personnel, it has begun cooperating with the PGR on investigations of counternarcotics cases involving soldiers and sailors. For example, in late August, Generals Quiroz and Acosta were arrested by military police on charges of narcotics trafficking and assisting the Ciudad Juarez-based Amado Carrillo drug cartel. General Acosta also was accused of complicity in the disappearance and torture of several persons in Guerrero during the 1960's and 1970's.

In 1999 the Military Judicial Police had arrested five members of a military dissident group, the Patriotic Command for Raising People's Awareness (CPCP), a group composed of military personnel protesting what they had called an unjust military justice system. The authorities charged the five CPCP members with the crime of sedition and later arrested the leader of the group, Hildegardo Bacilio Gomez. According to the Foreign Ministry (SRE), on April 17, the CNDH concluded that allegations that the military had tortured or violated the human rights of Hildegardo Bacilio Gomez and the other incarcerated members of the CPCP were unfounded. At year's end, the authorities held Bacilio Gomez in jail but had not yet brought him to trial. In December, the 12th circuit court in Mazatlan, Sinaloa, granted injunctions that in essence dismissed the charges of insubordination, sedition, and conspiracy against Juan Francisco Bernal Vasquez, Gerardo Torres Benitez, and Ignacio Manzano Benitez. Although they still face charges of violating "common military duties," they are eligible for release on bail. The appeal filed by Hildegardo Bacilio, leader of the December 1998 protest, is still under consideration.

At times lawyers in human rights cases faced harassment. For example, on January 27, two men physically harassed Juan de Dios Hernandez Monge and issued threats against Pilar Noriega Garcia. Both are attorneys for students at the Autonomous National University in Mexico City (UNAM) detained by the authorities. On March 29, unknown persons broke into the home of Leonel Guadalupe Rivero Rodriguez, another attorney for UNAM students. No valuables were taken but his computer files having to do with the UNAM cases were searched (see Section 2.a.).

The only political prisoner is General Jose Francisco Gallardo who maintains that he was sentenced to 28 years' imprisonment for speaking his mind on the advisability of having a military ombudsman (see Section 4). During the year, he received visits from Amnesty International.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the protection of privacy, family, home, and correspondence, and the law requires search warrants; however, in the past there have been 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.

On September 20, the Mexico City daily newspaper *El Universal* reported that President-elect Fox, his transition team, and the National Executive Committee of Fox's party, PAN, were victims of eavesdropping on their telephone conversations. To substantiate its charge, the newspaper printed the transcript of a phone conversation between Fox and his spokesperson. Fox later verified the authenticity of the transcript. The persons or person responsible for the taping are unknown, but the press speculated that it only could have been the Government's civilian intelligence organization, the Center for Investigation and National Security (CISEN). However, no evidence was provided to support that charge, and CISEN denied responsibility. In December President Fox formed a committee, led by Secretary of Government Santiago Creel, Secretary of Public Security Alejandro Gertz Manero, Attorney General Rafael Macedo de la Concha, and security advisor Aguilar Zinser, to revise the practices and role of CISEN. The President gave the committee 100 days to evaluate CISEN and propose a plan for its reorganization and the enhancement of its transparency.

On July 19, Jose Murat Casab, governor of Oaxaca, announced that a routine check of his office had turned up three listening devices. Murat blamed three officials of the Federal Secretariat of Government—Francisco Eduardo de la Vega y Avila, Jose Trinidad Rodriguez Ballesteros, and Olaf Ivan Corro Labrafor this act. The three officials then lodged a federal complaint against Murat for character defamation. Zacatecas governor Ricardo Monreal Avila instructed state attorney general Gonzalez Navarro to open an investigation into alleged electronic monitoring of state government officials by federal security agents. In addition, state police chief Miguel Angel Hernandez advised state representatives that they all were being monitored electronically, although the factual basis for this advice was unclear.

On November 29, the PGR announced that it would not initiate legal action against Jorge Salomon Azar, former governor of Campeche, nor Antonio Gonzalez Kuir, current governor of Campeche, for their presumed involvement in the 1998

wiretapping of Layda Sansores, a former member of Congress. They later were released. However, on December 18, Sansores petitioned a court to order the PGR to reactivate the investigation against both men and to investigate Valente Quintana, coordinator of the state security and police system; Antonio Ayala; Dante Omana; and Manual Alfaro Isaac, former coordinator of advisors for then-Governor Salomon Azar.

The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The 1984 General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without a woman's consent. There were no reports of forced sterilization during the year. In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of coerced sterilization. It said that the number of such complaints had grown, in large part due to women's increased awareness of their rights.

Independent agencies believed that forced sterilization procedures exceeded by several times the number of known cases, but the overall scope of the problem was difficult to quantify. Women may not realize that procedures have been performed until after the fact, and many victims are reluctant to file complaints, although there are mechanisms for filing formal complaints with the National Medical Arbitration Commission and with the national and state human rights commissions. However, the CNDH office in Chiapas reported that in some indigenous communities women choose sterilization, but then due to fear of reprisal from their husbands report that it was forced upon them or that they simply did not understand the nature of the procedure. In 1999 there were reports of possible violations of informed consent standards with contraceptive drug use in the state of Guerrero; however, these charges were not substantiated.

*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. Incidents of conflict in Chiapas between the security forces and EZLN sympathizers and in Guerrero between the army, the Popular Revolutionary Army (EPR), and the Revolutionary Army of the People's Insurgency (ERPI) led to many of these accusations. However, the confused circumstances of these clashes made those allegations difficult to substantiate. UNHCHR Robinson suggested in November 1999 that the Government consider creating a military human rights ombudsman to combat impunity in the armed forces. In an interview with the newspaper *La Jornada* published on July 27, CNDH president Jose Luis Soberanes responded that his agency was capable of dealing with complaints of violations by the military, and he also called for a restructuring of the military. The Secretariat of National Defense (SEDENA) has offices in Chiapas and Guerrero, to deal with citizen complaints of human rights violations. SEDENA, in coordination with the CNDH and state human rights commissions, provides its officers with human rights training; however, enlisted troops do not always receive instruction on human rights (see Section 4).

During much of the year, the Government maintained around 20,000 troops in selected areas of Chiapas to contain the EZLN-backed uprising that began in 1994, and about half that number in Guerrero to handle 2 much smaller rebel groups there. The EPR and the EPRI maintain a presence in Guerrero; however, they were less active compared with the previous year.

On December 1, his first day in office, President Fox ordered the dismantling of 53 military checkpoints in Chiapas and military camps in the conflict zone. In less than 10 days, the army withdrew from two contentious military positions. In addition, the Government lifted restrictions on previously expelled foreigners and eased visa requirements for members of human rights organizations. In a December 2 press conference in La Realidad, Chiapas, the EZLN's Subcommander Marcos stated that President Fox's initial steps were encouraging and praised his choice of Luis H. Alvarez as his Chiapas Peace Coordinator. The rebel leader also laid down five conditions for a return to dialogue with the government: passage of the Congressional Chiapas Peace and Reconciliation Commission (COCOPA) bill, liberation of all EZLN prisoners, withdrawal of the army from EZLN territory and repositioning of the army to pre-1994 positions, closure of seven specific military posts in Chiapas, and no substitution of state police for army troops in the newly demilitarized areas. On December 5, Fox sent to Congress the COCOPA bill to implement the 1996 San Andres Accords between the EZLN and the Government. Governor Pablo Salazar Mendiguchia took office on December 8, and declared that he plans to review the cases of all state prisoners charged with links to the EZLN. On December 30, he had 16 Zapatista prisoners released from state custody with a promise that more would follow.

At year's end, an amnesty by the Oaxaca state government led to the release of 32 persons accused of ties to the guerrillas from state detention. Of the 55 persons still in custody, 27 are subject to additional federal charges; and 20 were charged before 1996, the commencement date stipulated in the amnesty law.

NGO's and others have alleged that in the process of dealing with rebels in Chiapas, Guerrero, and Oaxaca, the Government used excessive force. For example, on May 25, state police forces and the army entered San Isidro Miramar in San Agustin Loxicha, Oaxaca, to detain alleged EPR members. Community residents claimed police and military officers harassed, threatened, and beat them during the arrest of Octaviano Hernandez Pacheco and Andres Enrique Hernandez. Since 1996 more than 70 residents of Loxicha have been arrested for alleged involvement with the EPR. As of July, 24 of these were still in prison. In July AI claimed that the prisoners had been subjected to torture and death threats and criticized the absence of due process in the handling of the cases. The NGO the Christian Action for the Abolition of Torture has criticized the use of torture against residents of Loxicha since 1996. However, on December 2, President Fox announced his support for an amnesty for the EPR, the demilitarization of the Los Loxichas area of Oaxaca State, and a review of the arrests of alleged EPR members. On December 8, the Oaxaca State legislature passed an amnesty law for local indigenous persons (Loxichas) accused of having links to the EPR. As of December 16, eight persons had been released from detention as a result of the amnesty; 79 Loxichas were still in custody. Of these, another six persons were acquitted of homicide charges but not released because of other charges pending against them. Although 27 of these remaining prisoners are subject to federal charges, the Oaxaca State government has already petitioned the federal government for an amnesty on their behalf. Ultimately, up to 50 more prisoners could be released and 200 other persons still at liberty could have their arrest warrants cancelled, according to press reports.

In December 1998, the Fray Bartolome de Las Casas center and the PGR published conflicting reports on the Acteal massacre. The Fray Bartolome report blamed the Government for sponsoring armed civilian groups in Chiapas and for failing to protect the victims. The NGO accused the Government of waging "lowintensity warfare" in Chiapas and stated that the Government was responsible for the massacre. The PGR attributed the massacre to a history of local confrontation, the presence of the EZLN, an absence of the rule of law, and the neglect of local enforcement officials. In May a court convicted former General Julio Cesar Santiago Diaz and his two chief lieutenants of "homicide by omission" and sentenced each to 8 years in prison (see Section 1.a.). On October 15, the CNDH issued a report on the June 1998 battle in El Charco, Guerrero between the military and alleged elements of the ERPI that resulted in the killing of 12 persons. The Commission found that the army had violated the human rights of the inhabitants and that various articles of the Constitution, the Federal Criminal Procedure Code, and the Code of Military Justice had been violated. The CNDH recommended that the SEDENA investigate the actions of the military participants in the El Charco events, that the Judge Advocate's office investigate the official in the military prosecutor's office who first received evidence in the case, that the Judge Advocate's office determine if charges should be brought against military personnel, that SEDENA advise all military personnel regarding their role and responsibilities in upholding human rights and due process, and that Sedena issue general instructions limiting the role of military prosecutors in criminal investigations. SEDENA acknowledged receipt of the report, accepted its recommendations, and pledged to study how to implement them. At year's end, there was no information released regarding the results of any military investigations.

The military continues to deny any responsibility for abuses committed during the early stages of the Chiapas rebellion in 1994. The military authorities who have jurisdiction failed to punish any military personnel or government officials for committing abuses, although the CNDH issued an interim report in May 1994 finding that there was reason to believe that the military had injured or killed civilians in aerial attacks and that there were summary executions, illegal detentions, and instances of torture.

There were credible reports of violent incidents and murders committed by armed civilian groups and local political factions in Chiapas. The National Democratic Federation alleges that the group "Peace and Justice", which it described as a paramilitary group, was responsible for the murders of 53 Zapatista sympathizers since 1995. Another group that allegedly has committed human rights abuses in Chiapas is the Revolutionary Indigenous Movement against the Zapatistas. From January 1998 through August 1999, the army confiscated 431 weapons from civilians in the Chiapas zone of conflict. The Chiapas state attorney general's office claimed to have disbanded 39 gangs and confiscated 132 firearms within the same time period. On

August 3, between 30 and 300 members of the Peace and Justice armed civilian group fired their weapons in the air, set off fragmentation grenades, and burned at least 6 houses to evict 90 EZLN sympathizers from Paraiso, Yajalon Municipality, Chiapas. The eviction reportedly was the result of a 1997 land dispute. The 15 displaced families remain in the nearby village of Hidalgo Joshil, and 40 military personnel patrol the area to maintain peace.

Armed civilian groups, controlled or sponsored by local political bosses loosely affiliated with the PRI, were alleged to have committed many human rights violations in Chiapas, including the 1997 Acteal massacre. NGO's such as the PRODH, The Fray Bartolome de las Casas Human Rights Center in Chiapas, and the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) have identified at least 15 such groups; they identified 9 such groups in 1999. Some NGO's and press accounts contended that these groups were not only the private armies of local bosses, but also army surrogates armed by the military and used to attack the EZLN. The Government denied these allegations and likewise rejected the existence of paramilitary groups. On April 18, the Federal Attorney General's office opened a new special unit to investigate possible armed civilian groups in Chiapas. On October 27, the unit arrested 11 alleged members of Peace and Justice on charges of illegal weapons possession, organized crime, and terrorism. Among those arrested were three alleged leaders of the group: Samuel Sanchez, a former PRI state legislator; Marcos Albino Torres Lopez, a former army corporal; and Mario Cruz Perez, who reportedly was the link between the political and military wings of Peace and Justice.

On May 7, four masked men killed three indigenous persons and wounded one more during their return home by truck to Tzanembolom, Chenalho Municipality, Chiapas. The survivor was a reported EZLN sympathizer, while the dead were all members of the same progovernment family. It is unknown whether the attack was politically motivated, the result of a family feud, or a random criminal act. The CNDH opened two investigations that were still in progress at year's end. To maintain public order, the Chiapas state government adopted preventive measures, including police patrols and 24-hour police presence to protect local residents.

In June the municipal authorities of Chenalho, Chiapas, promised to facilitate the return to the area of almost 3,000 displaced members of "the Bees," a pacifist organization that sympathizes with some of the goals of the EZLN. The Bees had been displaced from Chenalho since 1997.

*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 respects these rights in practice. The mass media are not subject to formal censorship by the Government; however, there were reports of some self-censorship. In addition, threats and attacks on journalists—some reportedly by federal, state, or local authorities—hindered press freedom. Nonetheless, the freedom and independence of the media continued to expand. Many observers believe that drug trafficking organizations or corrupt security personnel in their pay carried out most of the attacks on the media.

The traditional cozy relationship between the Government and the media that tilted coverage and editorial opinion in the Government's favor has diminished but not disappeared entirely. The Government no longer controls the import of newsprint but does retain control over broadcast licensing, which critics claim led some broadcast media to practice self-censorship. Accordingly old habits of accommodation lingered, and the editorial line of some key news organizations maintained a bias in favor of the Government. The persistence of official influence—and its greatest concentration—was most apparent in television. Instead of paying a 12.5 percent tax on advertising revenues, television broadcasters provided free broadcast time to the Government, which gave it convenient access to this powerful medium. Official advertising in the media continues, but disguising it as news coverage is more common at the state than at the national level. Cash and noncash payments to journalists persisted but were not as common as they once were; legislation to end this practice was enacted in 1998.

The many attacks on journalists constituted the most serious problem for press freedom. The Committee for the Protection of Journalists and Media Communications reported that in 1999 there was a decline in the number of acts of intimidation, including physical attacks, threats, and detentions, against journalists; from 202 in 1998 to 135 in 1999. A report issued by 4 NGO's in 1999 recorded 240 attacks of various types against journalists during 1998, compared with 187 during 1997. These numbers include all aggressive acts against the media as reported in the media. According to the report, government institutions (including federal, state, or local police) or officials were responsible for 41 percent of the incidents. The

Manuel Buendia Foundation, one of the NGO's, concluded that the vast majority of acts were intended to intimidate. During the first 7 months of 1999, the CNDH program on aggression against journalists investigated 22 complaints of attacks on journalists; most were for assault or intimidation. One, from July in the state of Morelos, was for murder. The CNDH began an investigation of that case.

There were no new developments in the 1999 harassment cases of Sergio Haro Cordero or Jesus Barraza Zavala. There was no information available about the Mexico City attorney general's office's (PGJDF) investigation of the February 1998 killing of Luis Mario Garcia Rodriguez, a reporter for the Mexico City daily newspaper *La Tarde*.

On August 14, the CNDH recommended that the CISEN investigate and sanction agent Abraham Ponce Calvo for violating the privacy rights of Miguel Badillo Cruz, a columnist for the newspaper *El Universal*, and his wife. Badillo complained that on June 13 and 14, Ponce tracked his wife's movements from his car. Ponce denied the allegations, stating that from June 12 to 15 he was in a different location investigating organized crime.

According to PRODH and the newspaper *La Jornada*, on May 14, members of the military harassed journalists at the Las Limas checkpoint in the state of Chiapas. The journalists were prevented from taking photographs and were filmed by the soldiers.

On June 15, men dressed in police uniforms kidnaped Freddy Secundino Sanchez, a writer from the magazine *Epoca*, outside his home in Mexico City. The men drove him around in a taxi while they beat and threatened him at gunpoint before releasing him. On June 7, he received a death threat via telephone. On June 20, Secundino submitted a complaint to the Mexico City Human Rights Commission. The Commission in turn asked the Mexico City Attorney General's office to ensure that no agent under its command threatened or harmed Secundino, and that it provide Secundino and his family with protection and investigate Secundino's complaint. As a result, the Mexico City Attorney General's office assigned agents to protect Secundino and his family. The case was under investigation.

On June 22, unknown men opened fire on Lily Tellez, a high-profile news anchor and reporter for the national network TV *Azteca*, while she was driving in Mexico City. Tellez was uninjured, but her chauffeur and two bodyguards were wounded. The motive for the attack is unknown, but speculation has focused on Tellez's investigative reporting on narcotics and the Francisco Stanley murder case. Francisco "Paco" Stanley was a television talk show host who was murdered while exiting a Mexico City restaurant. In its 2001 report, Human Rights Watch (HRW) reported that in February that the Human Rights Commission of Mexico City alleged that the principal suspect had been framed by prosecutors.

On April 28, the body of Jose Ramirez Puente, the host of a popular radio news program in Ciudad Juarez, was found in his car. He was stabbed to death. State judicial police claimed that they found 17.6 pounds of marijuana in his car hours after the discovery of the body, although local media organizations disputed any connection to drug trafficking. Ramirez covered state and local politics and the police beat; it was not clear whether the killing was related to his work.

On April 9, the body of Pablo Pineda, a reporter and photographer with the newspaper *La Opinion* in Matamoros was discovered in the United States. According to news reports, he had been shot in the back of the head. In December 1999, Pineda survived an attempt on his life near his home.

In May Meliton Garcia, a reporter with the Monterrey-based newspaper *El Norte* was charged with fraudulently obtaining a voter's registration card. The charges against Garcia stem from a two-part series in which he reported on his efforts to obtain voting registration documents using a false birth certificate. In the article, he described how unofficial document expeditors who congregate outside government offices sell false birth certificates.

In September the former police commissioner in Ciudad Juarez filed a criminal defamation suit against Jesus Antonio Pinedo Cornejo and Luis Villagram, editor and reporter for the weekly *Seminario*. An article dated February 28 and entitled "History of Police Officer and Drug Traffickers" linked the police commissioner with the drug trade. On October 2, the commissioner announced that he would drop the suit.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers, which continued to separate government and media interests. Moreover, as much of the national media has developed higher journalistic standards and independence in recent years, government influence has declined. The media showed a high degree of editorial independence, particularly in the capital and other major

urban centers. Direct criticism of the Government, especially in radio and the print media, was common.

During the course of the year, prior to the July presidential elections, the Federal Electoral Institute (IFE) and the newspaper *Reforma* monitored media access for each of the candidates, especially broadcast media. The resulting published analysis demonstrated that the leading candidates enjoyed equal access to the media. National electronic media covered the candidates far more equitably than in past elections; however, there continued to be large discrepancies in coverage in local and state level electronic media. The overall effect was to give the PRI candidate Francisco Labastida more positive coverage. After the July 2 election, both the national and local media provided more balanced coverage overall.

In the middle of the campaign, the Government attempted to change the procedures for the distribution of government publicity placed in the media, placing control of all government advertising in the hands of the Secretariat of Government, which would then funnel the advertising through the government-owned Notimex news service. Media outlets protested, voicing concern that spending decisions would be based on political considerations. The Government retracted its plan and reverted to the system in which each government entity was responsible for its own paid advertising.

The Constitution recognizes academic freedom in higher education, and the Government respected this provision in practice.

In April 1999, a student strike at the UNAM to protest a proposed tuition increase shut down the university. The strike began when the authorities announced an increase in tuition but quickly evolved from a protest by some students into a more generalized attack on the national political system. The university administration made the tuition hike voluntary but did not meet other striking students' demands. The students at times used violence and intimidation to keep the university closed, and attempts to negotiate an end to the campus occupation failed. On February 6, several thousand PFP, accompanied by CNDH monitors, stormed the main campus, breached barricades, and detained about 600 strikers. Strikers did not resist the police operation, and the CNDH reported no human rights violations. Most of those detained were released within 24 hours, and only 251 were actually arrested and charged with rioting, terrorism, and dispossession. On February 14, classes resumed; however, on March 6, classes were disrupted once again when strikers reoccupied the university administration building and demanded the release from prison of fellow strikers. On April 14, at the request of UNAM rector Juan Ramon De la Fuente, 3,000 PFP personnel armed with batons and riot shields positioned themselves in and around the UNAM campus to forestall a strikers' reoccupation of the university. The PFP later withdrew from the campus. On June 7, the PGR released on bail the last six jailed strike leaders.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly, and the Government respects 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 occur frequently throughout the country.

The police showed restraint and avoided confrontation with UNAM student strikers, who conducted periodic marches through the streets of Mexico City (see Section 2.a.).

According to the NGO General Office of Citizenship Participation and Social Conduct, in the first half of the year, on the national level there were 83 marches with 291,560 participants and 58 blockages with 54,552 participants. In Mexico City there were 43 marches with 13,255 participants and 60 blockages with 10,990 participants.

The Constitution provides for freedom of association, and the Government respects this right in practice. Political parties, opposition, 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 but are not allowed to use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the IFE. The IFE currently recognizes 8 political parties and 31 political groups. Three parties lost their registration as a result of the July election because they obtained less than 2 percent of the vote.

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 Foreign Ministry (SRE), there are as many as 7,500 NGO's active in the country, which are an important and vocal part of civil society.

The Government was accused of harassing NGO's, especially in the state of Chiapas (see Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, there are some restrictions. In November 1998, the Government and representatives of many religious denominations signed a religious code of conduct that reaffirms freedom of religion. The law bars the clergy from holding public office, advocating partisan political views, supporting political candidates, or opposing the laws or institutions of the State.

Religious groups cannot operate legally without registering as religious associations with the Under Secretariat of Religious Affairs of the Federal Secretariat of Government. Although the Government does reject a few applications, usually due to incomplete documentation, the registration process is routine.

The authorities in the past have used immigration law to restrict the activities of religious workers, particularly in the state of Chiapas. To visit the country for religious purposes, foreign religious workers must secure government permission. The Government limits the number of visas each religious group is allowed. Some religious groups claim that it is government policy to keep foreign religious practitioners out of Chiapas and Oaxaca, thus making it more difficult for religious workers going to those states to obtain visas. The Government maintains that it does not deny visas based on religion, and does not expel religious workers based on their religious activities. The Government argues that foreign religious workers have been expelled for inappropriate political behavior. There also have been incidents of violence between religious groups in Chiapas (see Section 5).

The Government lifted almost all restrictions on religious groups in 1992. The Catholic Church and other religions maintain their own schools; however, the Catholic Church complains of government restrictions on the running of those schools and the raising and spending of school funds. Although religious associations cannot own or administer broadcast radio or television stations, the Catholic Church owns and operates a national cable television channel. Government permission is required to transmit religious programming on broadcast radio or television, and permission is granted routinely.

Relations were difficult between the Catholic Diocese of San Cristobal de las Casas, Chiapas, and the Government during the tenure of Bishop Samuel Ruiz, which ended in April. The situation in Chiapas is a result of a complex mix of economic, ethnic, political, and religious tensions. The San Cristobal Diocese has complained that its foreign clergy are unable to get their visa status extended or rectified (many enter on tourist visas).

The non-Catholic Christian population continued to grow in Campeche, Chiapas, Yucatan, and along the northern border. There is a long 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 (see Section 5).

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement, and the Government does not restrict the movement of its citizens into, out of, or within the country, except in Chiapas where the Government attempts to keep persons away from EZLN areas.

The army and federal immigration authorities maintain strict checkpoints in parts of Chiapas. The focus of the checkpoints is the verification of tourist activities by persons with tourist visas. They also serve to stem illegal immigration. Church and human rights activists claim that the Government is fostering an antiforeigner climate. In addition, church groups complain about legal requirements that foreign religious workers must secure government permission to visit the country for religious purposes, and that the Government limits the number of visas granted to each religious group.

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; any pending case brought by an illegal immigrant is subject to dismissal because the person is no longer present. In May the CNDH criticized the mistreatment of Central American migrants by the authorities and society. Studies conducted by the College of Mexico indicate that human rights violations against Central American migrants were increasing. On May 2, the newspaper *La Jornada* reported that approximately 2,899 complaints of human rights violations had been filed by Central American migrants in 1999.

There were incidents in which illegal immigrants either were harassed or injured. On April 11, members of the state auxiliary police and federal judicial police ar-

rested seven indigenous residents of Oaxaca State in a bus terminal, mistaking them for illegal Guatemalan migrants. After being interrogated by federal and state authorities, they were released. On April 13, the CNDH opened an inquiry into the victims' claim of cultural discrimination.

On July 30, in Ecatepec, Mexico state, auxiliary police allegedly beat four Central American migrants hiding in a rail car (see Section 1.c.).

There was no new information available about the alleged beating in March 1999 of four intending immigrants near Mexicali, Baja California, by federal fiscal police.

There were also credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

The law provides for the protection of foreigners who might face political persecution if they were to return to their countries of origin. The law includes provisions for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government accepts the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the office of the U.N. High Commissioner for Refugees (UNHCR). In June 1999, UNHCR Sadako Ogata visited the country and signed agreements with the Government to strengthen protection for refugees.

On October 3, immigration authorities arrested Pedro Anibal Riera Escalante, a Cuban national and deported him to Cuba the following day. The Foreign Relations Secretariat subsequently noted that Riera, a former Cuban consul general in Mexico City, had applied for asylum on September 8. There were no other reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. As a result of electoral reforms approved and implemented in recent years, the political process and especially the electoral process have become more transparent. While elections are open and generally fair, some abuses continue to occur. Prior to the July 2 presidential election, the PRI had dominated politics, controlled the Federal Government, and won every presidential election since its founding in 1929. However, on July 2, voters elected Vicente Fox, a member of the National Action Party and presidential candidate of the Alliance for Change Coalition, president, with 43.3 percent of the vote. Observers, both international and domestic, judged the elections, which ended the PRI's 71-year hold on the presidency, to be generally free and fair. The observers described the election as a historic turning point of the most profound significance and made recommendations for further electoral reform.

The legislature amended the Constitution to allow the eligible 9 million citizens resident overseas to vote in national elections; however, the Senate failed to act on the necessary implementing legislation that would have made voting possible in the 2000 election, due to differences over the costs and requirements for voting.

Presidents are elected every 6 years and cannot be reelected. President Ernesto Zedillo supported legislation making the IFE an independent agency and declined to handpick his party's candidate for the presidential election. Instead, the PRI held a multicandidate primary in 1999 and chose Francisco Labastida as its presidential candidate.

The Federal Electoral Institute (IFE), operating with full autonomy, arranged the July 2 federal elections, which international observers judged to be generally free and fair. They described the elections and the resultant overturning of 71 years of dominance by the PRI as a historic turning point of the most profound significance and made recommendations for further electoral reform. The IFE had implemented the extensive 1996 constitutional and legislative reforms to help prevent electoral fraud and to create more uniform conditions for political party participation by regulating campaign finance, advertising, and other areas. 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 has provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

After the July election, in the Chamber of Deputies, the PRI held 211 seats; the PAN 207; the PRD 50; the Green Ecologist Party (PVEM) 17; the Labor Party (PT) 7; Democracy Convergence (CD) 3; the Nationalist Society Party (PSN) 3; and the Social Alliance Party (PAS) 2. The PRI holds 59 seats in the Senate; the PAN 45; the PRD 17; the PT 1; the PVEM 1; and the CD 1. Legislators can and do change their party affiliation frequently.

On the state level, the PRI governs 19 states, the PAN 8, the PRD 1, PRD-PT coalitions 3, and PAN-PRD-led coalitions 2. On the municipal level, opposition

strength is well established. The PRD governs the Federal District, and the PAN governs 13 of the 20 largest metropolitan areas.

On August 20, Chiapas voters elected the opposition Alliance for Chiapas candidate Pablo Salazar Mendiguchia to serve as governor, in a decisive victory over the PRI's Sami David David. As during the federal elections, the army was confined to its barracks, and the police presence was restrained. Although there were reports of minor, isolated irregularities, voting generally went smoothly. In his victory speech, Salazar supported the demilitarization of Chiapas and the introduction in Congress of the COCOPA legislation based on the 1996 San Andres accords between the EZLN and the federal Government.

On August 25, post-election violence in Chimalhuacan, Mexico state, between local PRI factions left at least 10 persons dead and many more injured. State police later arrested 62 persons, including the supposed ringleader, Guadalupe Buendia Torres.

Despite the IFE's efforts, there were still controversies at the state level over elections. On December 29, in Tabasco, the ultimate court of appeal on election matters (TEPJF) annulled the results of the state's disputed October 15 gubernatorial election and directed the Tabasco state legislature to name an interim governor and prepare for a new election. In its decision, the TEPJF cited inequitable local media coverage, diversion of funds for the election for the PRI candidate, and the blocking or miscounting of opposition votes. The TEPJF was created in 1987 and had never before invalidated an election.

Yucatan state opposition parties accused PRI Governor Victor Cervera Pacheco and the PRI-dominated state legislature of stacking the State Electoral Council to favor the PRI's candidates in the 2001 elections. On December 29, the TEPJF rejected the Council nominated by the state legislature and named a new Council. PRI state legislators questioned the legitimacy of this TEPJF-appointed Council and vowed to fight the "imposition" in the courts.

Although there are no legal impediments to their full participation, women are underrepresented in government and politics. Women hold approximately 16 percent of the seats in the Congress. No women serve as governors or justices on the Supreme Court. A woman, Rosario Robles, served as head of government of the Federal District from September 1999 to December. Under President Zedillo, 2 Cabinet Secretaries out of 20 were women. President Fox appointed 9 women to his 51-member Cabinet. A total of 9 of the 15 members of Mexico City Mayor Manuel Lopez Obrador's cabinet are women, and 13 of the city's 23 key city officials are women.

The Electoral Code provides that no more than 70 percent of candidates can be of the same gender. All political parties are attempting to increase the number of women who run for elected office through formal and informal means. They have utilized quotas requiring that a certain percentage of candidates on a party list be female. However, in practice women more often are put forward as substitute candidates who have little chance of serving unless the titular candidate leaves office. The PRD leadership is 22 percent female, 24 percent of its representatives and 13 percent of its senators are female, and it has a female party president. The PAN has utilized more informal methods to increase female registration. Nonetheless, 23 percent of its leadership is female, and 11 percent of its senators and representatives are female. PRI party rules mandate that a certain number of its candidates be women. Twelve percent of the party leadership, including its president, is female. Fifteen percent of both its representatives and senators are female.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to local office according to "usages and customs," rather than standard electoral law. Only the states of Oaxaca and Quintana Roo have enacted the implementing legislation. These 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. Women were excluded systematically from the political process by "usages and customs" in Oaxaca state and expected to face the same phenomenon in the state of Quintana Roo.

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

A wide variety of human rights groups operate largely without government restriction, investigating allegations of human rights abuses and publishing their findings on human rights cases. Government officials generally have become more cooperative and responsive to NGO views; however, the Government used vigorous enforcement of its constitutional prohibition on foreigners engaging in political activities to hinder the work of foreign human rights monitors, and it restricted the activities of many human rights observers and religious workers in the state of Chiapas.

After the December 1997 Acteal massacre, foreign concern over Chiapas increased significantly, and many foreigners and members of human rights groups traveled to that area, often on tourist visas, to learn firsthand about conditions there, to observe the human rights situation, and donate supplies. However, when individual foreign activists in Chiapas acted in ways that the Government considered political and inconsistent with tourist status, the Government issued them a letter of departure that required them to leave the country upon expiration of their visas.

On July 4, Deputy Secretary of Government Jose Angel Pescador Osuna annulled the 2-year expulsion of Tom Hansen, director of Mexico Solidarity Network, and agreed to reconsider the expulsions of 400 other human rights activists, priests, and foreign development volunteers. On June 30, Hansen was granted a 15-day election observer visa.

In 1998 the National Migration Institute (INM) began to require persons who wished to enter the country to monitor the human rights situation to go through a new application process, which required, among other things, that they apply 30 days in advance. The INM also placed a 10-day limit on visits, set a limit of 10 visitors per NGO, and required that visitors submit a detailed itinerary and agenda. Domestic and foreign NGO's objected to these new visa requirements, and asserted that they actually restrict human rights monitoring and give the Government the right to decide which human rights organizations are legitimate. While government officials promised that the process would improve access for human rights observers, the effect has been the opposite. Immigration officials have used this visa requirement in the past to remove from the country religious workers whom they judge to be engaging in human rights activities. They also used this procedure to restrict the activities of human rights monitors. Human rights observers reported that the process is difficult, complex, rarely results in visa issuance, and interferes significantly with their ability to monitor human rights violations. As of September 15, 155 applications for human rights observer visas were made and 74 visas were issued. Of the 100 applications made in 1999, 95 were issued.

NGO's reported that human rights workers in several states received death threats while working on cases that implicated government officials. On June 13, Arturo Solis, president of the Center of Border Studies and the Promotion of Human Rights, publicly accused federal immigration agents in Tamaulipas of involvement in illegal immigrant trafficking. He has since received numerous death threats. The case is under investigation by the Secretariat of Government, the National Human Rights Commission, the Tamaulipas State Human Rights commission, and a congressional commission.

On August 3, in Oaxaca, Oaxaca, the home of Angelica Ayala Ortiz, vice president of the Mexican League for the Defense of Human Rights (LIMEDDH), was robbed. Missing were Ayala's computer, recording equipment, and the new television and videocassette recorder that replaced similar ones stolen from her home last year. Asserting that the robbery was an act of intimidation, Ayala, who works on indigenous rights issues, lodged a complaint with the state attorney general's office, which is investigating. On February 15, an arrest warrant was issued for Jesus Reynaldo Hernandez Bautista, a bank security guard, for the July 1999 robbery of the LIMEDDH office in Oaxaca. There had been no apparent progress in the investigation into the August 3 robbery of Ayala's home by year's end.

In August elements of the army allegedly began to harass Hilda Navarrete Gorjan, director of the human rights NGO the Voice of Those Without a Voice in Coyuca de Benitez, Guerrero. On August 18, military personnel were parked in vehicles outside Navarrete's office with weapons pointed in the direction of her building. On August 23, unknown persons broke into the office and stole computer and video equipment; however, there was no evidence to suggest that the military was responsible for the break in.

There were no new developments in the investigation into the 1999 threats, harassment, and attacks against the PRODH and human rights lawyer Digna Ochoa. The investigation was still open at year's end. Mexico City judicial police provide protection for Ochoa while she is within the city limits. On May 10, the Inter-American Court of Human Rights stated that the Government was providing the protection for Ochoa ordered by the court, and that it had received no information about new threats or evidence of violence against PRODH. However, Ochoa did receive telephone death threats in June.

The PRODH has criticized the Government's actions to provide safety to human rights workers as inadequate. The PRODH advocates the adoption of measures to promote awareness of the importance of human rights work and to investigate cases of threats, intimidation, and attacks against human rights workers.

The National Human Rights Commission (CNDH), established by the Government in 1990, has improved its credibility steadily. The Senate, instead of the President,

now appoints the commission's president, although some NGO's feared that this would make the CNDH more susceptible to political pressure. In November 1999, the Senate named legal scholar Jose Luis Soberanes to a 5-year term as CNDH president, replacing the sitting president prior to the expiration of her term. Although most NGO's have a favorable opinion of the CNDH, many are critical of its method of presenting information, especially the reporting of compliance with recommendations. NGO's also have criticized the CNDH's reliance on former government security or judicial personnel as investigators of human rights abuse allegations.

General Jose Francisco Gallardo Rodriguez, who was arrested in 1993 on a range of charges, including embezzlement and dishonoring the military, was moved in 1999 from a military to a civilian jail. Gallardo maintained that military authorities were persecuting him because he wrote an academic dissertation calling for the establishment of a human rights ombudsman's office in the military. Since 1996 the IACHR and AI had called for his release. On August 4, Gallardo's lawyer lodged a complaint with the Federal Attorney General's office to demand action against the military tribunal for negligence of administration of justice because it allegedly had issued its resolution against Gallardo 63 days after the legal time limit.

In 1999 U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions Asma Jahangir visited the country at the Government's invitation. Her report stated that the ineffectiveness of the justice system had led to violations of human rights. In addition, civilian courts' lack of jurisdiction over members of the armed forces for violations of human rights committed against civilians erodes the independence of the courts. The IFE implemented Jahangir's suggestion to invite international observers for the presidential elections and accredited 860 persons.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 are not enforced effectively, although the Government continues to make progress in efforts to do so.

Amnesty International has reported that homosexual men and women are likely to be victims of abuse and violence. In its 1999 annual report, the Citizen's Commission Against Homophobic Crimes reported that on average three murders are committed because of sexual orientation per month, and that there have been 190 such killings in the last 5 years, mostly in Mexico City, Mexico State, and Veracruz. The consensus among gay rights groups is that the police fail to investigate these crimes seriously.

*Women.*—The most pervasive violations of women's rights involve domestic and sexual violence, which is both widespread and vastly underreported. A 1997 law on intrafamily violence criminalized intrafamily violence, established protective measures for victims, and provided public education on the domestic violence problem. The law provides for fines equal to 30 to 180 days worth of pay and the detention of violators for up to 36 hours. The law also expanded the definition of rape to include spousal rape, involving married or common-law couples. According to a 1999 survey by the National Institute of Statistics, Geography, and Computation, some form of domestic abuse occurs in one of every three homes. The victim seeks help in only one of every six homes suffering from domestic abuse. More than 65 percent of all women suffer some form of abuse, verbal or otherwise, but only 30 percent lodge formal complaints, according to the Mexican Association Against Violence Toward Women. In 86 percent of abuse cases, it is the father or husband who commits the abuse. The Center for Attention to Intrafamily Violence reports that it receives between 50 to 60 complaints nationwide every day. Women are reluctant to report abuse or file charges, and the police are reluctant to intervene in what society considers a private matter. Many police also are inexperienced in these areas and unfamiliar with appropriate investigative technologies, although some have received training on these issues.

According to the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), over 1 million women each year seek emergency medical treatment for injuries sustained due to domestic violence, which is the fourth highest cause of death for women. Groups such as the NGO Center for Research and Care of Women, are attempting to counter the widespread view of domestic violence as private, normal behavior and to deter future violence. On June 1, Mexico City Mayor Rosario Robles publicized a handbook written by a coalition of feminist NGO's to reduce domestic violence and to help victims of gender discrimination.

Under certain circumstances limited to the statutory rape of a minor between the ages of 12 and 18, the Criminal Code allows a judge to dismiss charges if the persons involved voluntarily marry. In practice this provision is invoked rarely.

In the case of the approximately 200 women raped, murdered, and mutilated in the Ciudad Juarez area since 1993 (see Section 1.b.), the CNDH determined in 1998 that the Chihuahua state attorney general's office's inadequate response had violated the human rights of the victims and their families. The CNDH therefore recommended that the state attorney general and the mayor of Ciudad Juarez be investigated for negligence. In the same year, the authorities appointed a special prosecutor and hired foreign experts in serial killings to advise investigators. The murders and rapes continued during the year.

Trafficking in women for the purpose of forced prostitution occurs (see Section 6.f.).

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Sexual harassment in the workplace is widespread.

The CNDH's First Inspector General's office is devoted entirely to protecting the rights of women.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support, unless the child was a product of rape or cohabitation, the child resides with the father, or there is written proof of paternity.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and that "equal pay shall be given for equal work performed in equal jobs, hours of work, and conditions of efficiency." However, women in the work force generally are paid less than their male counterparts and are concentrated in lower-paying occupations. According to a 1998 academic study, even though girls and boys attend school at similar rates, a woman on average needs to have 4 more years of education to earn the same salary as a man in a comparable position.

Labor law includes extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breast feeding in adequate and hygienic surroundings provided by the employer. Employers are required to provide a pregnant woman with her 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 deliberately violate these provisions by requiring pregnancy tests in pre-employment physicals, by regular examinations and inquiries into women's reproductive status (including additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. In its 2000 and 2001 annual reports, Human Rights Watch indicated that the Government not only was aware of such practices and failed to prevent them or to punish the perpetrators, but also made public excuses for companies that violated the law. The U.S. National Administrative Office (NAO), under terms of the North American Agreement on Labor Cooperation (NAALC), the labor side agreements to the North American Free Trade Agreement, accepted a challenge to these practices in the maquila industry and in January 1998 recommended ministerial consultations. As a result, the U.S. and Mexican Secretaries of Labor participated in a conference in Merida, Yucatan, in March 1999, on gender discrimination in employment. In addition, the U.S., and Mexican NAO's organized cross-border outreach sessions in August 1999 on the rights of women in the workplace in McAllen, Texas and Reynosa, Tamaulipas. The conference and the outreach sessions concluded that discrimination exists, that it is not sanctioned by law, and that the authorities have taken steps to inform female workers of their right to file complaints about such practices, by distributing brochures and opening government offices that work together with NGO's to publicize the problem and available remedies.

To protect the labor rights of women, the Secretariat of Labor made 9,593 safety and hygiene inspections in private factories and public institutions through August and estimated that it would complete 13,790 by the end of the year. The Secretariat made 23,138 inspections in 1996. 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 number of maquila plants (approximately 3,500 operating) far exceeds what the less than 700 (approximately 350 state and 341 federal) inspectors can monitor.

In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of forced sterilization (see Section 1.f.).

The National Women's Program (PRONAM) monitored the situation of women, made recommendations to the Government regarding women's issues, and worked with government agencies, international organizations, and NGO's to support women's causes. PRONAM and the National Statistics Institute compiled gender-specific statistics to ascertain more accurately the status of women. The International Labor Organization (ILO), the Secretariats of Labor and Foreign Relations, and PRONAM also promoted the status of women in the workplace. In addition, PRONAM and UNICEF initiated in 1999 an ongoing advertising campaign attacking social stereotypes and discrimination against women.

*Children.*—Children under the age of 15 make up 35 percent of the population, and the median age of the population is 21. The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remain. The CNDH receives numerous complaints about the services provided by the Secretary of Health, the Secretary of Education (SEP), and the Institute of Social Security. Nine years of education are compulsory, and the legal minimum age for employment is 14; however, according to SEP and the Sierra Neighborhood Foundation, only 31 percent of youths between 15 and 20 years of age attend school.

The problem of child labor is particularly pronounced 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 portable. The National Public Health Institute's 2000 National Nutrition Survey reported that 3 million children under the age of 5 suffer some form of malnutrition. UNICEF also reported that approximately 5 million children, 2 million of which are under 12 years of age, are working. In 1998 the director of the National Education Council reported that 1.7 million school-age children were not in school because their poverty obligates them to work. About 900,000 children work in agriculture, particularly in the northern states. UNICEF and the National Institute for Integral Development of the Family, in a 1999 study of working children in the 100 largest cities, estimated that 150,000 children work in those cities. (NGO's maintain that the total is higher.) According to a 1999 national nutrition survey, 30 percent of children under 5 years of age, or about 3 million, suffer anemia, while another 2 million children are chronically malnourished.

On January 4, the Congress passed a constitutional amendment to protect the rights of children and teenagers and ensure respect for their dignity. The new law also increased penalties for the sexual abuse or exploitation of children. Child prostitution and pornography are felonies under the law. On May 31, the Congress passed the Protection of the Rights of Children and Adolescents Law. The law provides for the right to life, non-discrimination, healthy living conditions, protection against threats to liberty and physical abuse, a healthy family life, health services, equal treatment for the disabled, education, pursuit of happiness, and freedom of thought and expression. Penalties under the law include fines of 500 to 1,000 times Mexico City's minimum wage and possible administrative jail time.

The CNDH attempted to protect children by educating them on their rights and reviewing legislation to ensure compliance with relevant international conventions. On August 30, the Public Education Secretariat (SEP) announced the publication of four new books geared to teach children about discrimination, violence in the home, and toleration of differing beliefs.

The Mexican Association of Childhood and Youth reported that there is a large population, estimated at 42,000, of vulnerable street children in Mexico City. Street children often become involved with alcohol, drugs, prostitution, petty thievery, and increasingly, violent crimes. Corrupt police officials sometimes exploit these children by pressuring them to commit petty crimes and extorting money from them.

A 1998 report by the NGO Center for Research and Advanced Study in Social Anthropology counted 5,000 minors, 90 percent of them female, working as prostitutes or subjects of pornography. In April the Mexico City attorney general's office and the Mexico City Human Rights Commission reported that nearly 12,000 children in Mexico City are victims of sexual commercialism, including prostitution. The National System for the Integral Development of the Family (DIF) receives an average of about 35,000 complaints per year of physical and mental abuse against children, the majority in Mexico City, Mexico State, and Nuevo Leon.

Trafficking in children for the purpose of sexual exploitation is a problem (see Section 6.f.). On November 22, the Federal Attorney General's office established the Special Prosecutor's Office for Attention to Crimes of Trafficking in Children.

The Government and various NGO's have programs directed at children that address human rights issues. Generally, the purpose of these programs is not only to protect the rights of children but also to instill a generational respect for human rights through educational programs. An example of this educational approach is the Tree House (La Casa del Arbol), an interactive learning project sponsored by the human rights commission of Mexico City.

*People with Disabilities.*—Estimates of the number of disabled persons range from 2 to 10 million. In Mexico City alone, 124 NGO's dealt with issues affecting the physically disabled.

Twenty-seven of the 31 states have laws protecting the disabled. Local law requires access for the disabled to public facilities in Mexico City, but not elsewhere in the country. However, in practice most public buildings and facilities in Mexico City do not comply with the law. The Federal District also mandated access for physically disabled children to all public and private schools. The Mexico City secretary of education, health, and social development has maintained that 78 percent of these children received some schooling. On August 2, the President's Office announced that 90,000 disabled children were integrated into a regular education system under the Zedillo Administration.

In December President Fox established the Citizen's Commission Against Discrimination to be headed by former Social Democracy presidential candidate Rincon Gallardo. The Commission's objectives include ensuring equal opportunities and access for the disabled and codifying these rights in a legal framework.

Mental Disability Rights International (MDRI), an NGO, discovered mistreatment and violations of the rights of the mentally disabled persons in government mental health facilities. Abuses uncovered from 1996-99 included inhuman and degrading treatment, misuse of physical restraints, and criminal neglect that in some cases led to deaths of patients. The MDRI further alleged that because the process through which persons are admitted legally to state institutions is conducted without oversight by a judicial or independent body, which can lead to a total loss of independent decision making or consent to treatment by patients. As a result of its 1999 report and an expose in the January 30 issue of the newsmagazine *Proceso*, in February the Secretariat of Health made over \$800,000 (8 million pesos) available to improve conditions in Mexico City's institutions and to provide over \$5,000 (50,000 pesos) for each of the 400 persons living in these institutions to participate in community-based workshops. The Secretariat of Health also made \$1.7 million (17 million pesos) available to improve the Ocaranza, Hildalgo institution as a pilot project.

*Indigenous People.*—The indigenous population, long subject to discrimination, repression, and marginalization, is estimated at 29 million persons of Indian descent, of whom 11 million live in Indian communities and 5 million are native speakers of Indian dialects. An estimated 9 million indigenous persons live in extreme poverty. According to the National Indigenous Plural Assembly for Autonomy (ANIPA), there are 56 distinct indigenous groups, each with its own unique culture and language. Indigenous people are located principally in the central and southern regions and represent a majority in the states of Oaxaca (53 percent) and Yucatan (52 percent). 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 1994 Chiapas uprising focused unprecedented attention on the demands of that state's indigenous population for increased economic and social rights. Among its basic demands, the EZLN called on the Government to enact measures to protect indigenous cultures, provide more opportunity for employment, and invest in schools, clinics, and infrastructure projects. In the 1996 San Andres accords, the Government agreed with the EZLN on the need to expand indigenous rights. However, Congress has not yet approved these accords, and the conflict remains unresolved. The Government maintains a heavy military presence in parts of Chiapas, a presence that NGO's have called threatening and intimidating to the indigenous population (see Section 1.g.).

In its report "The War in Chiapas", issued in April the Fray Bartolome de las Casas Human Rights Center (CDHFBC) reported that the military was the principal aggressor in its 1999 cases. The CDHFBC also concluded that the presence of the military put at risk the human rights of life, physical integrity, liberty, and security of the local inhabitants. In addition other groups expressed concern during the year over growing instability and tension within the Indian communities provoked by the presence of military, police, and paramilitary troops.

In April an ICRC representative stated that thousands of Indians who fled their homes in Chiapas were suffering from food shortages and malnutrition. At year's end, the ICRC was feeding over 9,000 persons at year's end on a continual basis.

There still were cases of malnutrition, and the ICRC addressed those cases with 100 percent complete food supplements.

At year's end, the federal and state government strove to create a positive atmosphere for negotiation in Chiapas through troop withdrawals and the release of Zapatista prisoners (see Section 1.g.).

The Government, through the National Indigenous Institute, the CNDH, and various NGO's, operates programs to educate indigenous groups about their political and human rights. The Government generally professes respect for their desire to retain elements of their traditional culture. The CNDH's office of the Fourth Inspector General reviews and investigates violations of indigenous rights. More than 130 NGO's are dedicated to the promotion and protection of indigenous rights.

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, including allegations of crimes, and to elect 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 (see Section 3).

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. However, these were not sufficient to meet the needs of all indigenous people. Although the national population growth rate has slowed to less than 2 percent annually, the birth rate among marginalized indigenous groups such as those in Chiapas is around 5 percent. The General Education Act provides that teaching shall be promoted in the national language (i.e. Spanish) without prejudice to the protection and promotion of indigenous languages. However, many indigenous persons speak only their native languages. As a result, 1999 ANIPA statistics suggest that indigenous people suffer from a high rate of illiteracy and a low rate of school attendance. Non-Spanish speakers frequently are taken advantage of in commercial transactions involving bilingual middlemen and have difficulty finding employment in Spanish-speaking areas.

*Religious Minorities.*—There is a long 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 bosses of indigenous communities sometimes regard evangelical groups and Catholic lay catechists as unwelcome outside influences and potential economic and political threats. As a result, these bosses 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, beatings, and, occasionally, killings. These problems more frequently arise in "autonomous indigenous areas" under the influence of the EZLN, according to evangelical leaders. The abuse related to these and other incidents, apparently did not occur solely and exclusively on the basis of religion. While religious differences were often a prominent feature of such incidents, ethnic differences, land disputes, and struggles over local political and economic power were very often the basic cause of the problems.

There were reports of conflict between Catholic/Mayan syncretists and Protestant Evangelicals in Chiapas. For example, on March 5, Catholic/Mayan syncretists evicted at least 70 evangelical families from Plan de Ayala, Chiapas. Later that month, 250 state police escorted the Evangelicals back to Plan de Ayala, where they remained for 2 weeks. However, in early April the Catholic/Mayan syncretists again evicted 20 of the evangelical families from that community. On April 16, the Catholic/Mayan syncretists drove out the 70 police officers stationed there to keep the peace and set up roadblocks around the town. The following day the expelled Evangelicals attempted to return to the community, but were prevented from doing so by the roadblock. Expelled evangelical families reported that the Catholic/Mayan syncretists demanded that they sign a statement renouncing their faith as a prerequisite for their return to the community. Attempting to mediate, Governor Roberto Albores offered social programs to the Catholic/Mayan syncretists if they allowed the Evangelicals access to the town. The Catholics accepted the offer, but denied blocking access to community members, claiming that they only wanted to "prevent strangers from infiltrating the community and causing problems." They removed the roadblock, but tensions remain.

Tension between Catholic/Mayan syncretists and evangelical groups continues to be a problem in the municipality of San Juan Chamula. The Evangelical Commission for the Defense of Human Rights claims that municipal authorities have expelled 30,000 persons in the last 30 years. The children of Evangelicals have been denied access to the local public schools in six communities since 1994.

Adventists in Oaxaca report that families who were members of their denomination were expelled from the community of Santo Tomas Kirri. In Santo Domingo, Mexico state, Adventists reported that they were forced temporarily to close their church. In Chiapas the Adventists viewed the local government as reluctant to intervene in towns governed by traditional "practices and customs."

On May 17, the body of an alleged witch doctor was found in Comitán, Chiapas. The motive for his death is suspected to be the victim's practice of witchcraft, which is common in rural areas of southern Mexico; no suspects were arrested or charged.

Progovernment supporters had in the past accused the Catholic Church in the San Cristobal diocese in Chiapas of supporting the EZLN.

#### *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. About 25 percent of the total work force is unionized, mostly in the formal sector, where about one-half the labor force is employed.

No prior approval is needed to form unions, but they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) in order to function legally. Registration requirements are not onerous. However, the STPS or the JLCA occasionally have withheld or delayed registration of unions hostile to government policies, influential employers, or established unions. The STPS and the JLCA also have registered unions that turned out to be run by extortionists or labor racketeers falsely claiming to represent workers. To remedy this, STPS officials required evidence that unions were genuine and representative before registering them. Genuine unions are those that 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.

Human Rights Watch criticized the Government's system of labor tribunals in a December 1999 report that claimed that the right to freedom of association often was violated even when courts ruled in favor of organizing workers. The report states that in the case of the Democratic Union of Workers of the Ministry of the Environment, Natural Resources, and Fishing the courts allowed workers to organize formally, but Government officials continued to interfere in such a way that the union could not function effectively.

Like the Federal Labor Board (JFCA), the JLCA are tripartite. Although trade union presence on the boards is usually a positive feature, it sometimes led to unfair partiality in representation disputes. For example, the board member from an established union may work to dissuade a JLCA from recognizing a rival organization. Trade union registration was the subject of follow-up activities pursuant to a 1995 agreement reached in ministerial consultations under the NAALC.

Unions form federations and confederations freely without government approval. Most unions belong to such bodies. They also must register to have legal status. The largest trade union central is the Confederation of Mexican Workers (CTM), traditionally a part of the labor sector of the PRI, but affiliation is by individual unions.

The Federal Employee Union Federation (FSTSE), the Revolutionary Worker and Peasant Confederation, and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) also are allied with the PRI. However, several unions do not ally themselves with the PRI, including the large teachers' union, which severed its PRI ties a decade ago, and freed its minority factions to cooperate openly with other parties, particularly the PRD. Rivalries within and between PRI-allied centrals are strong. There also are a few small labor federations and independent unions outside the CT not allied with the PRI. One is the small, left-of-center Authentic Labor Front (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In November 1997, 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed the National Union of Workers (UNT)—a labor central in competition with the officially recognized CT. In April 1999, the Mexican Electricians Union (SME) announced that it would withdraw from the CT over its failure to give full support to the SME's opposition to the Government's plan to privatize partially the electric power sector. The SME had not withdrawn officially from the CT at year's end; however, it currently maintains no contact with the CT.

PRI-affiliated union officers traditionally helped select, ran as, and campaigned for, PRI candidates in federal and state elections and supported PRI government policies at crucial moments. This gave unions considerable influence on government policies but limited their freedom of action to defend member interests in other ways, particularly when this might harm the government or the PRI. The CT, especially the CTM, was well represented in the PRI senatorial and congressional delegations, although its numbers diminished significantly after the 1997 and the July elections.

The ILO Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE request, violate ILO Convention 87 on freedom of association. These restrictions allow only one union per jurisdiction, forbid union members from quitting the union, and prohibit reelection of union officials. In 1998 the COE and the ILO Committee on Application of Standards reiterated their criticism and asked the Government to amend the law. The Government had not amended the law by year's end; however, a May 1999 Federal Supreme Court decision now permits the formation and recognition of more than one union per federal entity. A 1996 Supreme Court decision invalidated similar restrictions in the laws of two states, but the decision applied only in the specific instances challenged. In May 1999, the Supreme Court extended this interpretation to unions in federal government entities.

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.

During the year, the JFCA reported that 8,282 strike notices were filed and 26 legal strikes occurred in federal jurisdiction. Federal labor authorities did not stretch legal requirements to rule strikes nonexistent or illicit, nor did they use delays to prevent damaging strikes and force settlements. However, in 1998 strikers at the Han Young maquiladora plant in Tijuana filed an "amparo" (a type of injunction) action in a Federal District court challenging the ruling of the JLCA in Tijuana that declared the strike begun on May 22 of that year to be illegal. On May 3, 1999, the court recognized the striking union's right to the collective bargaining contract and declared the 1998 strike to have been legal. Acting quickly on that decision, the union put strike flags at the plant, but the JLCA declared the new strike illegal because the board had not yet been informed officially of the court's ruling nor given time to act on that ruling. Efforts to resolve the conflict through the courts continued throughout the year. The union's leader and lawyer were the subjects of arrest warrants for allegedly detaining the plant manager against his will; however, these individuals had not been taken into custody at year's end.

The dissident leaders of the teachers' union who were charged with forcing entry into the Senate and holding several senators hostage in 1998 were released within 3 months from pretrial detention when charges were reduced substantially. There is no record that they were ever tried on the reduced charges.

During the first major strike in 10 years that occurred at a Ciudad Juarez plant in July, some protesting workers reported that they were harassed by police and representatives of the union holding the contract at the plant. Earlier in the summer, the leader of a group of workers challenging the existing union at a plant in Tamaulipas asserted that he had been kidnaped and held for more than 24 hours by representatives of that union. However, state labor authorities eventually recognized the new union, which allowed it to negotiate with plant management.

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 permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and to force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

Employer organizations slowed efforts to push for labor law reform early in 1999 and entered into ongoing discussions with the Government and labor unions about reforming the LFT's rules of procedure. Government, employers, and unions had ne-

gotiated reforms through tripartite national agreements and collective bargaining at the enterprise level. Reforms were effected also through cooperation in programs to increase, and compensate for, productivity. Government, national labor unions, and employer organizations met periodically throughout the year to discuss ways and means of cooperation to boost productivity, wages, and competitiveness. The need to reform the LFT was an issue in the presidential campaign and in the fall session of Congress.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals. Reflecting that change in attitude and relationship, the International Federation of Metalworkers Unions opened an office in Mexico, and U.S., Canadian, and Mexican autoworker union representatives held meetings in the country during the year.

A complaint alleging a refusal on the part of the Government to register the Academic Workers Union of the National College of Technical Occupational Education (SINTACONALEP) as a union is pending before the ILO's Committee on Freedom of Association (CFA). SINTACONALEP's employer, the National College of Technical Occupational Education (CONALEP), requires its teaching staff to sign documents denying the existence of an employment relationship thereby feigning a type of relationship that is covered under the civil code and not the LFT even though the form, terms, and conditions all correspond to an employment relationship. Hence according to STPS, SINTACONALEP members do not meet the definition of workers under the LFT to be registered as a union. In 1999 the CFA issued an interim report requesting that the Government provide a copy of the applicable law that denies trade union status to SINTACONALEP and that the Government investigate the allegations of interference and antiunion discrimination on the part of CONALEP. The ILO had not received a response from the Government by year's end.

*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 prounion 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 are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree.

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 country's record in internal union democracy and transparency was mixed. Some unions were democratic, but corruption and strong-arm tactics were common in others.

A disputed 1997 election for the right to the collective bargaining contract for workers at a Korean-owned maquiladora in Tijuana, Baja California continued to provoke controversy. Although the parties reached a settlement in January 1998, allegations that plant management violated health and safety regulations were considered in a public hearing by the U.S. NAO that year. The dispute over union representation at the plant continued, and in May the U.S. and Mexican Secretaries of Labor signed an agreement on steps to resolve this dispute; pursuant to that agreement the Mexican Labor Secretariat held a public NAFTA conference in Tijuana in June to address the issues raised in the complaint.

In another case involving freedom of association linked to the right to organize unions, in December 1997, 9 unions and 24 human rights NGO's jointly filed a submission with the U.S. NAO alleging that a CTM-affiliated union used strong-arm tactics to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in Mexico state. This submission also alleged violations of health and safety regulations. The Canadian NAO also received a submission on this case in the spring of 1998. The U.S. NAO issued a report in July 1998 that recommended ministerial consultations. At year's end, U.S., Mexican, and Canadian labor authorities continued to discuss the issues raised in both submissions. The May agreement between the U.S. and Mexican Labor Secretaries and adhered to by the Canadian Labor Minister provided that the Mexican Labor Secretariat hold a public NAFTA conference in Mexico City in late fall to address the issues raised in the complaints. However, the conference had not taken place by year's end.

In November 1999, the U.S. Association of Flight Attendants filed a submission with the U.S. NAO alleging violations of worker rights to freedom of association and to bargain collectively; protection of the right to organize; minimum employment standards; and prevention of occupational injuries and illnesses at Executive Air Transport, Inc. (TAESA). The complaint focused on the voting process employed when the Mexican flight attendants union sought the right to represent flight attendants employed by TAESA. The U.S. NAO held a public hearing in Washington in March and issued a report in July recommending ministerial consultations.

The public sector is almost totally organized. Industrial areas are heavily organized. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from antiunion discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector vary by area and sophistication of the manufacturing process. Wages have been lower and job creation has been greater in this sector than in more traditional manufacturing. Wages in the maquiladora sector are still lower than in the traditional manufacturing sector, although they are approaching manufacturing sector level. Some observers allege poor working conditions, inadequate wages, and employer and government efforts to discourage unionization in this sector. There is no evidence that the Federal Government opposes unionization of the plants (the maquiladora sector tends to be under state jurisdiction), but some state and local governments in the west are said to help employers discourage unions, especially independent ones, through the use of protection contracts. 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 Compulsory Labor.*—The Constitution prohibits forced labor, which includes forced and bonded labor by children; however, there were some cases of trafficking in persons for purposes of forced prostitution and forced labor (see Section 6.f.). There also were cases of abuses of refugees and illegal immigrants in Chiapas (see section 2.d.). There were no reports of forced child labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits children under 12 years of age from working. The law sets the minimum legal work age at 14 years. Those between the ages of 14 and 15 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 export industries and those under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, despite continued government efforts.

In 1996 the ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Most child labor is in the informal sector (including myriad underage street vendors), family-owned workshops, or in agriculture and rural areas. Mexico City's central market employs approximately 11,000 minors between the ages of 7 and 18, who work as cartpushers, kitchen help, and vendors. The children do not receive a fixed wage, and most work long shifts, starting in the early morning hours. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were unable to convince indigenous farm workers to leave their families at home, and many have settled near work sites in the north. The union has had some limited success in negotiating with employers to finance education in Spanish and indigenous languages near work sites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields. Many urban child workers are migrants from rural areas, are illiterate, and have parents who are unemployed.

The Federal Government increased the number of obligatory school years from 6 to 9 in 1992 and made parents legally liable for their children's attendance, as part of a reform to upgrade labor force skills and long-term efforts to continue increasing educational opportunities for and participation by youth. Scholarships offered to families of the abject poor under the Government's "Progreso" antipoverty program kept an additional 100,000 children in school in 1999. According to "Progreso," that number increased by 18 percent during the year.

In March the Government ratified ILO Convention 182 on the worst forms of child labor. The government of the Federal District implemented a law adopted in July

1999 that increased limitations on working hours and conditions for children employed as supermarket baggers and automotive attendants.

The law bans child labor, including forced or bonded labor, and there were no reports of its use (see Section 6.c.).

*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 January 1, but any of the three parties can ask that the Commission reconvene during the year to consider a changed situation. In December 1999, the wage commission adopted a 10 percent increase effective January 1, based in part on the Government's projection of a 10 percent annual inflation rate for. For the first time, all labor representatives on the Commission abstained from the vote in protest, and also for the first time, the Government stood firm on its original offer. During the course of the year, wage and benefit adjustments to collective bargaining contracts averaged about 13 to 15 percent, which was several points above the final inflation rate of 8.9 percent for the year.

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 \$3.99 (37.90 pesos). However, employers actually paid \$4.55 because of a supplemental 14 percent subsidy. These income supplements to the minimum wage, agreed to in annual tripartite pacts, are for all incomes less than four times the minimum wage, decreasing as wages and benefits rise. In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage (before the subsidy) was \$3.70 (35.10 pesos). In other areas, it was \$3.44 (32.70 pesos). There are higher minimums for some occupations, such as building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (about 16 percent) earn only the minimum wage. Industrial workers average three to four times the minimum wage, earning more at larger, more advanced, and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits include free social security medical treatment and pensions, individual worker housing and retirement accounts, substantial Christmas bonuses, paid vacations, and profit sharing. Employer costs for these benefits add from about 27 percent of payroll at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets six 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is one reason why unions vigorously defend the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

There are 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) and 4 more state offices of the STPS to make it more convenient for workers to file complaints and bring other actions before the labor court system. In addition, the Labor Secretary has transferred more personnel to the JFCA to reduce backlogs. He also has highlighted as special issues child labor, women in the workplace, and the physically disabled by assigning responsibility for them directly to one of the under secretaries. In February 1999, the Labor Secretariat established a separate office for equality and gender 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 is reasonably good at most large companies. However, because smaller firms are far more numerous and so much more difficult to monitor, these officials were unable to draw any general conclusions about their compliance. Federal inspectors are stretched too thin for effective enforcement if companies do not comply voluntarily and fulfill their legal obligation to train workers in occupational health and safety matters. 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 encour-

age members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

In July a large group of U.S., Canadian, and Mexican labor organizations and NGO's filed a submission with the U.S. NAO alleging the failure of Mexican labor authorities to comply with health and safety regulations resulting in occupational injuries to a number of workers at maquiladora plants belonging to a U.S. company in the border state of Tamaulipas. The U.S. NAO accepted the submission in September for formal review and conducted a public hearing in San Antonio, Texas, on December 12.

On July 23, about 150 workers at a construction site for a hospital in Ciudad Juarez rioted over mistreatment by police and poor working conditions. The workers complained of low pay and extremely poor living conditions at the barracks where they were housed.

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. Allegations have been 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.*—There are no specific laws that prohibit the trafficking of persons; however, immigration laws, the federal organized crime law, and federal and state penal codes contain laws that are used to prosecute traffickers of undocumented migrants, women, and children, and trafficking is a serious problem. The country is a transit country for the trafficking of persons, especially from China, to the United States and Canada. There also are isolated cases of trafficking Mexican nationals for the purpose of forced prostitution or sexual services, domestic servitude, forced or bonded sweatshop labor, or other debt bondage. The Government has strengthened significantly its cooperation with China, the United States, and other countries. There were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (see Section 2.d.).

On July 31, the Honduran Government stated that it was working to repatriate from Mexico approximately 400 Honduran girls, between the ages of 10 and 16 years, who after having tried to enter the United States illegally were forced into prostitution in Mexico.

A study that was jointly funded by UNICEF and DIF and released in June studied the commercial sexual exploitation of children in six cities. Its author estimated that the number of children involved in the sex trade countrywide at 16,000. Most are Mexicans, although there are significant numbers from Central America—principally Guatemala, Honduras, and El Salvador. The Central American children enter the country through Chiapas. In many cases they are brought there by procurers who promise them employment in legitimate occupations. They are thereafter sold to the owners of bars and other establishments and then forced into prostitution to “pay off their debts.” This debt peonage often never ends because the children accrue more debt for their meals and housing. Oftentimes, the owners will sell or trade the children among themselves. Other children are transported to Mexico City for training. They are then sent to centers of tourism. Some children are trafficked to the United States and Canada. The study concludes that the commercial sexual exploitation of children is a phenomenon that is present today throughout the whole country.

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## NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. President Arnaldo Aleman was elected in a free and fair election in 1996, defeating his closest competitor, Daniel Ortega of the Sandinista National Liberation Front (FSLN). The Supreme Electoral Council is an independent fourth branch of government. A series of political accords between the governing Liberal Constitutionalist Party (PLC) and the Sandinista National Liberation Front (FSLN), though highly controversial, ceded the FSLN more power in several governmental institutions in exchange for the avoidance of the use of violent protests to achieve political ends. FSLN leaders largely refrained from using or threatening the use of violence. The Constitution provides for an independent judici-

ary; however, the judiciary is at times susceptible to political and financial influence.

The President is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian Defense Ministry upon his inauguration. The Ministry of Government oversees the National Police, which is charged formally with internal security. However, the police share this responsibility with the army in rural areas. The National Police recently diminished the role of voluntary police, private citizens contracted by the National Police to help fill staffing gaps, in law enforcement. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

Nicaragua is an extremely poor country, with an estimated per capita gross domestic product of less than \$480. The economy is predominantly agricultural; coffee, seafood exports, sugar, beef, and some light manufacturing are the key sectors. The economy grew at 7 percent in real terms in 1999, but the rate declined in 2000. Real GDP growth rate for 2000 is estimated at 5 percent. The estimated annual rate of inflation was 8 percent, marking the second consecutive year of single digit price increases. While the Government estimated that unemployment is less than 11 percent, some nongovernmental organizations (NGO's) calculated the rate of unemployment and underemployment as high as 40 to 50 percent. Private foreign investment continued to increase during the year; however, economic growth is hindered by unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government in the 1980's. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance and remittances from citizens living abroad.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed six reported extrajudicial killings. Police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although they improved somewhat. Security forces arbitrarily arrested and detained citizens at an increased rate. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Lengthy pretrial detention and long delays in trials remain problems; however, the judiciary has made efforts to reduce the large case backlog. The judiciary also is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. A new Judicial Organic Law, intended to address many of these problems, came into effect in January 1999; however, the weakness of the judiciary continued to hamper prosecution of human rights abusers in some cases. The Human Rights Ombudsman made several publicized recommendations during the year that openly challenged the policies of the Aleman Administration. These led to little concrete action. Violence against women, including domestic abuse and rape, remained a problem. Discrimination against women is an ingrained problem. Violence against children is a problem and child prostitution continues. Discrimination against indigenous people is a problem. Child labor also remained a problem. There were reports of trafficking for forced labor and trafficking in women and girls for the purpose of forced prostitution.

The civil war formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN, or "Contras"). However, the rule of law and basic infrastructure do not extend to all rural areas. Despite the Government's disarmament campaigns, many citizens, especially in rural areas, are heavily armed. Marauding criminal gangs, some of which claimed political agendas, continued to be a problem in the mountainous regions of the north, as well as on the Atlantic Coast.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials; however, the police registered six reports of extrajudicial killings by police.

The Inspector General's office (IG) of the National Police reported 6 instances in which a member of the police killed an alleged criminal and 35 instances in which police seriously wounded criminal suspects while attempting to arrest them. The IG automatically remands to the court system for review cases in which police use deadly force; however, the cases often take considerable time to process. 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 IG's office normally applies a mild punishment, such as suspension or confinement to precinct.

Of the 48 cases the IG remanded to the courts during the year, there were no reports of case adjudication.

On August 19, in Managua, police officers Juan Ramon Velasquez and Leonel Antonio Velasquez shot and killed 20-year-old Javier de Jesus Solorzano Hernandez. Solorzano and his friend Marlon Antonio Obando Madrigal were leaving a neighborhood block party when two unknown thieves reportedly attempted to rob them. When Solorzano and Obando refused to give up their money, the four youths entered into a fight. The thieves had beaten Solorzano to the ground when the Velasquez brothers, who were patrolling the neighborhood, arrived on the scene. The thieves reportedly escaped just before the police arrived, at which time one of the two policemen approached Solorzano, believing that Solorzano and Obando were gang members. The officer hit Solorzano with his police baton until he fell down again. Obando then claimed that one of the two officers, at close range, fired two bullets into Solorzano's chest. Juan Ramon Velasquez claimed that when they arrived on the scene Solorzano was brandishing a gun. The police reported that they shot Solorzano in an act of self-defense. It remained unclear if Solorzano indeed was brandishing a revolver, and the preliminary autopsy report raised questions about the veracity of Velasquez's story. Juan Ramon Velasquez was suspended from his position and was awaiting trial at year's end.

In late October clashes between police and members of the Yatama political party led to one reported death and several injuries (See Section 5).

The police authorities treated another death involving police officers as a justified homicide in self-defense. On April 6, roadblocks on major transit arteries in the Southern Atlantic Autonomous Region (RAAS) by former members of the Nicaraguan Resistance resulted in clashes with police and the death of one of the protesters. The roadblocks were organized allegedly in response to the Government's failure to follow through on accords to settle longstanding claims for land titles and other benefits. According to a police report, the police were in the process of negotiating an end to the roadblock when five of the protesters attacked a policeman, Rafael Urbina Ortega. One of the assailants, Mauricio Mendoza, took the policeman's rifle and started shooting indiscriminately, injuring one policeman and four protesters. Mendoza, whom the police claim was inebriated, then was shot fatally by police. The local court in Rama, RAAS had yet to decide on the culpability of the police in the killing at year's end.

National Police reports indicate that the four policemen involved in the January 1999 killings of Hilario Briones Arostegui and Santos Arostegui Torres were never investigated.

There were no further developments in the May 1999 case of Pedro Gonzalez Talavera who was shot and killed by policemen in Villa Sandino, Chontales. At year's end, the case was still pending in the Appellate Court of Juigalpa.

There were no further developments in the 1997 Wamblan case in which 16-year-old Irma Lopez was killed, after allegedly being raped, by an army patrol.

There were no further developments in the 1997 La Patriota case, in which the army allegedly killed five members of a criminal band as they slept.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former contras, of the "Northern Front 3-80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the proSandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3-80 front and FUAC, engaged in murder, kidnapping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration, and FSLN leaders have made positive reference to the FUAC activities in public statements. However, law enforcement groups, human rights organizations, and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature. The violent criminal activities of the FUAC-related gangs received so much public attention that in June the army launched an intensive military operation to eliminate the gangs in the region (see Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law 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. During the year, the Nicaraguan Association for Human Rights (ANPDH) received 70 complaints of torture or degrading treatment by the authorities. However, according to government figures, the Ombudsman's Office for the Defense of Human Rights (PPDDH) submitted the majority of human rights cases to the police authorities; 39 of the 40 cases received by the police investigative bodies resulted from PPDDH in-

quiries. Police Inspector General Eva Sacasa proved willing to prosecute abusers. During the year, her office recorded 177 complaints of physical abuse by police, including those submitted by the ANPDH and others, and found 50 to have merit. The Inspector General sanctioned 131 officers in these cases.

Between January and November, 27 police officers were discharged dishonorably. The National Police recently diminished the role of voluntary police in law enforcement. Volunteer police are private citizens who are contracted by the National Police 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 from the state although they may be "subcontracted" to provide security to businesses and farms—nor do they receive any professional training. Given the sustained criticism of voluntary police for their involvement in human rights violations, on August 8, Chief of Police Franco Montealegre approved a new police statute terminating the employment of all voluntary police in Managua. Government authorities report that there still are 3,303 voluntary police located throughout the country.

While the Inspector General's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were provided with extensive training during the year, much of it through international assistance programs.

The Office of Civil Inspection for Professional Responsibility is responsible for monitoring allegations of illegal detention and police abuse and forwarding complaints received to the police Inspector General for follow-up action. A small budget and a small staff limited its effectiveness. Police Inspector General Sacasa received a total of 863 complaints of human rights violations by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 177 of these cases to have merit. She sanctioned a total of 288 officers for violations of human rights. Of those sanctioned, 69 officers were discharged dishonorably, and 48 were remanded to the courts; the rest received lesser punishments, including demotion, suspension, and loss of pay.

On February 16, voluntary policeman Julio Cesar Montenegro Pacheco accompanied by Lt. Roger Perez entered the house of Jose Francisco Fernandez in Managua, allegedly without authorization, after hearing what sounded like a gunshot. When the police began to beat Fernandez, he ran out of the house and tried to climb over a fence. Montenegro then used Perez's gun to shoot Fernandez twice in the legs. Montenegro later defended his actions, claiming that he only fired in Fernandez's general direction without intending to hit him when Fernandez tried to throw a machete at the police to impede their pursuit. However, the inquiries and site investigation of the Nicaraguan Center for Human Rights (CENIDH) concluded that Montenegro used unnecessary force and faulted Perez for allowing the voluntary policeman to use his gun. The National Police subsequently dismissed Montenegro and subjected Perez to disciplinary action.

On March 2, several members of the National Police stopped Rene de Jesus Membreno Calero, a Nicaraguan citizen who was traveling from Costa Rica to his mother's house in the department of Boaco. Captain Juan Manuel Chavez and other members of the patrol force, for unknown reasons, severely beat Mr. Membreno, causing rib fractures and other lesions. After making an investigation, the National Police concluded that the officers were innocent of all charges and closed the case.

On March 10, several police officers from San Rafael del Norte entered the home of Rafael Ubeda Castro to arrest Roger Antonio and Carmen Rafael Ubeda Castro without showing any type of arrest warrant. Roger Ubeda reported to ANPDH that when the police officers Mario Castillo and Mario Rojas took him and his brother Carmen outside the home of their father, the police officers began to beat them with a wooden stick and the handles of their pistols. The police officers took the victims to the police headquarters in Jinotega to interrogate them about possible involvement in armed gangs. Roger and Carmen remained in a holding cell for 3 days, at which time the police released them for lack of evidence and the receipt of good conduct reports by private citizens who knew the individuals (see Section 1.d.).

On March 11, police allegedly apprehended, handcuffed, and brutally beat Jesus Ramon Olivas Espinoza as he left a bar in Wiwili. The ANPDH reported that police officers Antonio Armador Cicon, Teodoro Vanegas, and several others punched and kicked Olivas several times. The police officers reportedly carried Olivas to a freight container and continued physically abusing him in the presence of six other detainees also held in the container. Olivas claimed that for 3 days the Wiwili police transferred him and the six other detainees to the holding cells at night while during the day they were moved to the container. The container attracted so much heat

from the sun that the detainees were reportedly close to dying from asphyxiation. The police apprehended Olivas because he was suspected of destroying the propaganda of political parties. On March 14, the local judge dismissed the case against Olivas for insufficient evidence. Olivas filed a complaint of mistreatment with police captain Alberto Garcia Pineda, but an investigation remained pending at year's end (see Section 1.d.).

On June 13, CENIDH reported that army soldiers Ricardo Lopez Navarrete and Jose Danilo Hernandez sexually abused Yadira Mendez Chavarria and robbed Ismael Reyes in the city of Rosita, Northern Autonomous Atlantic Region (RAAN). The soldiers were part of a military operation, carried out in June, to combat the illicit and violent activities of gangs in the region. The local judge in Rosita ruled in favor of the soldiers, but the Military Appeals Court found the soldiers guilty and sentenced them to 4 years in prison.

On August 6, police officer Allan Gonzalez and a police cadet repeatedly kicked a minor in Managua when the youth would not abandon the sidewalk in front of a private store. Spectators took photographs of the abuse, and all the major newspapers and human rights organizations criticized the event. Police Chief Franco Montealegre dismissed the officer and the cadet from the police department.

On August 23, four soldiers in civilian clothing, including Eleazar Miguel Romero, robbed a bus full of civilians in Palacaguina, Madriz, and then fired their guns at the passengers. After hijacking the bus, they fired their rifles in the air and began to rob the passengers, including in one instance shooting one, Jose Santos Cordoba Garcia, in both his legs. Once they stole everything, they stepped off the bus and allegedly began to shoot indiscriminately into the side of the bus, injuring a total of nine persons. Erling Suyapa Figueroa, a 15-year-old girl, was wounded in her left hand. The only identified assailant, Eleazar Miguel Romero, said that the soldiers committed the crime to augment their small salaries. While the military investigation remains pending, as of September, the case already was presented before the local judge in the region. In December the court found three of the four soldiers guilty, sentenced them to 16 years in prison, and acquitted the other soldier.

On August 26, Miguel Angel Toruno Orozco accused police officer Lizandro Exiles Moncada of shooting him in the chin at close range on May 22. Toruno claimed that while he and a friend named Francisco Reyes were walking home from a restaurant in the northern city of Esteli, Moncada, who was drunk and in civilian clothing, jumped out of a truck and pointed a pistol at him. Moncada threatened to kill Toruno and then, at close range, shot Toruno in the chin and left him lying in the street. While confined to a hospital bed for 2 months in critical condition, Toruno contacted local human rights organizations and the police to investigate the case. The local police allegedly closed the investigation claiming that Toruno was shot by friend, Francisco Reyes. However, Toruno flatly denied the police claim because he recognized Moncada before the incident, and Reyes does not know how to drive. The police in Esteli advised Toruno to take his case to the Office of Internal Affairs at the National Police headquarters. The office of internal affairs sent the case to a local magistrate. The police forensics team concluded that the bullet used to wound the victim did not come from the gun of the police officer. Based on that evidence, the local judge acquitted police officer Lizandro Exiles Moncada of all charges.

On April 11, three antiriot police were shot and wounded seriously when police attempted to disperse a group of 500 to 600 former members of the Resistance. The former Resistance members had established a roadblock at Boaco, in central Nicaragua. One member of the police, Ernesto Moises Lopez, lost his right eye, while another was shot in the stomach and a third in the back. The CENIDH reported that Jose Jesus Jiron, of the former Resistance, was killed in the incident. An individual riding on a bus also was shot in the leg. Police arrested 12 to 15 former Resistance members. The protesters allegedly were armed with grenades and shotguns at the time of the incident. The police sent three of the protesters to a local court in Boaco and released the others for lack of evidence.

Prison conditions remained harsh, but improved somewhat. The Supreme Court (CSJ), the National Police, the Attorney General, the Department of Prisons, and several human rights organizations worked together during the year to significantly reduce the number of prisoners who spent 6 months or more of incarceration without a trial (see Section 1.d.). The initiative helped to alleviate overcrowded prisons. As of September, only one of the eight correctional facilities maintained prison populations significantly higher than the standards established by U. N. conventions on the treatment of prisoners; the Granada penitentiary exceeded the U.N. standards by 146 prisoners. According to government statistics, the prisons had a total inmate population of 4,903 in September, compared with 5,298 in September 1999.

However, the prison system remains underfunded and medical attention ranges from inadequate to nonexistent. For example, for all 8 penitentiaries and 4,903 pris-

oners, prison authorities only maintained a staff of 22 specialists, which include doctors, psychologists, teachers, and social workers. Prison authorities also reported that 31 percent of prisoners remained without beds, forcing prisoners to sleep on concrete beds or floors. The percentage of prisoners without beds or bed mattresses would likely be higher without the periodic inflow of privately donated mattresses.

On June 6, then-Minister of Government Rene Herrera appointed Rosario Gaitan to replace Carlos Quintana as Director of Prisons. Gaitan previously served as Deputy to Quintana, has maintained a career in the penal system since 1980, and has earned both the respect of the prison personnel and the prisoners.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.50 (6 cordobas) and reported that the annual budget for food remained constant. There was some improvement in prison food, but malnutrition remained a problem in local jails and police holding cells. Many prisoners also received additional food from visiting family and friends. Medical care available to prisoners fell far short of basic needs. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 102 prisoners.

Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 2.6 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in such areas as timely release of inmates granted parole.

As of September, 3 percent of the prison population were between the ages of 15 and 18, compared with 4 percent in 1999 and 8.5 percent in 1998. All youths were housed in separate prison wings from adults. During the year the Department of Prisons completed the process of establishing separate facilities for juveniles or converting part of their existing prison space into a separate youth wing for all prisons.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Corn Island jail, six cells each holding six detainees frequently were filled to capacity. The authorities occasionally released detainees when they no longer could feed them. Several churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls. The ANPDH worked with the Director of Prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.). Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention by the police remains a problem. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members within 24 hours of the detainee's whereabouts. Compliance with this law increased significantly in 1999, largely because of pressure applied by the police internal affairs office and support for compliance from Chief of Police Franco Montealegre. Detainees do not have the right to an attorney until they have been charged formally with a crime. Local human rights groups are critical of the law for providing inadequate judicial oversight of police arrests.

The 1995 constitutional reforms reduced from 72 to 48 hours the time police may hold a suspect legally before they must bring the person before a judge to decide if charges should be brought. The judge must then either order the accused released or transferred to prison. Although cumbersome, this law was observed more closely than in past years, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.).

An interinstitutional effort comprised of the Supreme Court (CSJ), the National Police, the Department of the Penitentiary System, and several human rights organizations significantly reduced the number of prisoners with 6 months or more of incarceration without a trial. Specifically, on February 4, the Penal Bench of the Supreme Court passed an order to all local magistrates to give priority to those cases involving pretrial prisoners with 6 months or more of incarceration. According to government statistics, only 4 percent of the 4,958 prisoners have been in jail for 6 months or longer without a trial; in 1999, 8 percent of the prison population experienced an unusually long delay before their court hearing (see Section 1.c.).

During the year, ANPDH received 155 complaints of illegal arrest and arbitrary detention. Of those cases sent to the police IG's office by ANPDH and other human rights organizations, 28 complaints were found to merit investigation. Of these, 2

were determined to be without merit and 26 remained under investigation at year's end. As in past years, incidents of arbitrary detention were most common in Managua and in the rural northern and north-central regions, where much of the civil war was fought.

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 is susceptible at times to corruption and political influence. The judiciary is hampered by arcane legal codes, prosecutors who play a passive role, an underfunded, and understaffed defender's office, judges and lawyers who often lack sufficient training or education, and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court, and in addition to administering the judicial system, also 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 investigates crimes committed by and against juveniles. The 1994 Military Code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A Judicial Organic Law, passed by the National Assembly in 1997 to overhaul the archaic structure of the court system, finally was signed by President Aleman in 1998 and took effect in January 1999. The law contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's Judicial Commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention. By year's end, the Assembly had begun the process to approve a new draft Criminal Code. However, the Assembly still must approve each chapter of the draft Criminal Code before it can go into effect. At year's end, a special subcommission of the National Assembly Judicial Commission and the Supreme Court finalized a new draft Criminal Procedures Code. In 1999 the National Assembly approved a reform of the Public Ministry's office that streamlined the judicial process by separating the defense and the prosecution functions. President Aleman vetoed it in May but later rescinded his veto.

In July the Government opened new property tribunals to handle cases concerning seized properties (see Section 1.f.). This ends the nearly 3-year freeze in property-related lawsuits that started when the processing of such cases in district courts was suspended in December 1997.

Although the civil and criminal courts made significant progress in expediting the judicial process for those in prison without a prior court hearing, human rights and lawyers' groups in general continued to complain about the delay of justice, sometimes for years, caused by judicial inaction.

Judges appeared susceptible to corruption and political influence. The shelving of politically charged cases or ruling in favor of the politically connected party remained the most common manifestations of judicial corruption. For example, on May 26, Alejandro Carrion McDonough, the brother of Army Commander General Javier Carrion McDonough, allegedly killed Pablo salon Leal Aguirre, a rural farmer, in Masaya when Leal allegedly refused to provide access to the water pipeline leading to Carrion's farm. The family of Leal took the case to the police and judicial authorities, but in spite of an arrest warrant, the police never apprehended Alejandro Carrion. Several weeks after the incident, including an announcement by Leal's family that the Carrion family attempted to bribe them in exchange for dropping the charges, alternate judge Walter Solis in the Criminal Court of Managua dismissed the charges. Largely due to public pressure, the Supreme Court forced alternate judge Solis, previously suspected of official misuse of authority, to retire from the bench. The Leal family appealed the decision of Solis, but at year's end, the Court of Appeals acquitted Alejandro Carrion. The case then went to the Supreme Court where it was pending at year's end.

In an ongoing campaign to reduce incompetence and corruption in the judiciary, the Supreme Court removed an additional 10 judges during the first half of 1999, bringing the total removed since the campaign began in 1997 to 104—more than one-third of the 300 judges in the system. The Judicial Inspector's office received 238 official complaints against lawyers, judges, and judicial functionaries in the first half of 1999.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a Public Defender's office to represent indigent defendants. The office in Managua maintained a staff of 13 appointed public defenders throughout the year; however, more are needed. The Court has requested funding for 26 additional public defenders to be located outside of Managua. Elsewhere in the country where public defenders have not been available, the system in effect before the passage of the new law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the State, many attorneys have paid a fine of about \$8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the new law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. However, high-ranking officials in the Public Defender's office complained that they continued to encounter blatant judicial corruption and the willingness of several judges to sentence defendants without a public defender present.

Under the Napoleonic legal system, a trial does not consist of a public hearing. Rather, there is a desk review by a magistrate of the file of the accused. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date. The Supreme Court tried to alleviate the problem by issuing instructions to prison authorities to release prisoners immediately upon the return of an innocent verdict. In addition, the ANPDH worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

Despite improvements to the criminal law system, the country still lacks an effective civil law system. As a result, cases more properly handled in a civil proceeding often are transmuted into criminal proceedings. One party then effectively is blackmailed, being jailed due to action by the party wielding greater influence with the judge. In addition, this heavy civil-based criminal caseload claims attention from an overburdened public prosecutor's office and diverts resources 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.

In November 1997, the National Assembly passed a law intended to resolve long-standing property disputes that stemmed from massive confiscations by the Sandinista government in the 1980's. The legislation provided for the establishment of new property tribunals with procedures that include mediation, binding arbitration, and expedited trials. After numerous delays, the new property tribunals finally started accepting cases for filing in July. The tribunals' administrative offices are fully staffed and operational. Any lawyer interested in serving as a judge may submit his or her resume. The Supreme Court then selects judges by lottery, after which the names of the designated judges are published in newspapers for public comment. The Supreme Court can eliminate from consideration those judges about whom they received complaints. The judges for Managua and Leon already have been selected, and the process is continuing for tribunals in other regions. As of December, the tribunals reported that almost 100 cases have been filed. A total of 35 cases were settled through mediated settlement agreements. The unsuccessfully mediated cases passed on to arbitration or expedited trials. By year's end, the tribunals had not yet issued a final determination in any case, and it was too early to judge their fairness and efficiency.

#### *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 respects 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 can-

not be subject to censorship, there is retroactive liability established by law, defined as a social responsibility, implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media.

The Inter-American Press Association (IAPA) reported that during 1999, members of the pro-Sandinista Nicaraguan Journalists Union and leaders and members of the Nicaraguan Journalists' Association attempted to revive legislation to establish a professional journalists' guild. Although in 1996 the National Assembly passed a bill that would have established such a guild, the bill never was signed into law. The journalistic community was divided sharply over whether such a law would improve the quality of journalism or merely restrict freedom of speech and of the press. The IAPA expressed concern about any attempts to revive this proposal and also about the possible effect on press freedom of a provision in the new draft criminal code approved by the Judicial Commission of the National Assembly (see Section 1.e.) that would increase the possible penalties for libel and slander.

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. In April a popular daily newspaper revealed a corruption scandal that received significant attention from the Government and the public. Over a period of several weeks the newspaper provided substantial evidence that the Director of Internal Revenues Collection (DGI) Byron Jerez misused his position and authority. The journal's coverage of the scandal forced the Government to investigate the scandal and take action; in June Byron Jerez was forced to resign from his office.

The IAPA continued to report that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied to a newspaper critical of the government certain tax benefits provided to other media businesses.

Media representatives also charge the Aleman Government with using other means to retaliate against critics. La Prensa, the newspaper most active in unearthing government corruption, has been in a tax dispute with the DGI that the paper claims is based purely on politics. Channel 8 is involved in a dispute over the non-payment of social security fees for its employees, a dispute that the owner of Channel 8 also attributes to political machinations on the part of the administration for his vocal criticism of the President. The administration also proposed a bill that would set minimum wage levels for print, radio, and television journalists. The media claimed that the President had an ulterior motive in proposing the bill that would set unrealistically high minimum salaries and force media outlets to either close or drastically reduce their operations. In February the National Assembly's Commission on Education, Media, Culture, and Sports rejected the proposal.

The news medium with the largest national audience is radio, but polls show that television is the primary source of news in the cities. There are 117 chartered radio stations in the country; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are seven Managua-based television stations, six of which carry news programming, often with noticeable partisan political content. In addition, there are 60 cable television franchises that offer services in most large and medium-sized cities.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respects 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, but many groups chose not to register because, they claimed, the process was too cumbersome. Throughout the year, several groups threatened to cause civil unrest as a result of the newly instituted constitutional and electoral reforms. In August coffee growers held small demonstrations to protest government policies and a lack of government support.

In late October clashes between police and members of the Yatama political party led to the reported death of one demonstrator and injuries to several others (see Section 5).

The Constitution provides for the right to organize or affiliate with political parties, and the Government respects 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 this authorization from the National Assembly, which it routinely confers.

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

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to travel and reside anywhere in the country and to enter and exit the country freely, and the Government respects these rights in practice. In December 1998, the Government abolished a requirement that citizens and residents obtain an exit visa to leave the country. The right of citizens to return to the country is not established in the Constitution, but in practice the Government has not restricted anyone's return.

In May the Government nullified the citizenship application of former Minister of Defense Jose Antonio Alvarado. This action was portrayed widely in the media as a response by President Aleman to Alvarado's aspirations to the presidency in 2001. Alvarado, a Nicaraguan by birth, relocated abroad during the civil war in the 1980's and acquired foreign citizenship. Alvarado claimed that he returned to Nicaragua in 1990, and reacquired his Nicaraguan citizenship. Minister of Government Rene Herrera nullified Alvarado's application for "repatriation" based on allegations of fraud and other irregularities in the application. This administrative action effectively removed Alvarado's opportunity to qualify for the 2001 national elections. A new constitutional reform stipulates that elected positions can be occupied only by Nicaraguans who have maintained their citizenship for the 4 years immediately prior to the date of the general elections. In August an appeals court ruled in favor of Alvarado, thus suspending Herrera's administrative action. The Supreme Court ultimately is to decide the case.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise.

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

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

Citizens exercised their right peacefully to change their government in free and fair national elections in 1996 held under the auspices of the Supreme Electoral Council (CSE), an independent branch of government. Over 90 percent of eligible voters registered, and 76 percent of eligible voters voted in 1996. Over 3,000 national and international observers declared the elections free and fair, despite some logistical and organizational problems.

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The President heads the executive branch and a cabinet appointed by the President, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot. The Constitution does not permit the President to hold consecutive terms in office.

A single-chamber National Assembly exercises legislative power. In October 1996, voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are to serve 5-year terms. The ruling PLC holds the highest number of deputy seats with 36; the FSLN has 35; a dissident liberal caucus has 8; the Conservatives have 5; and a conglomeration of minor parties make up the remaining 9 seats.

On January 20, the National Assembly approved a package of proposed constitutional amendments supported by the leadership of both the governing PLC and the opposition FSLN. Key elements of the legislation included a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing President and Vice President; a requirement for a two-thirds majority vote in the Assembly, rather than the previous qualified majority vote, to remove presidential immunity from prosecution; and the replacement of a single Controller General with the current 5-person collegial body charged with investigating allegations of wrongdoing or financial malfeasance by Government officials. The legislation provided for election of the President and the Vice President in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the

vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party will lose its legal status if it obtains less than 4 percent of the vote in a general election. The latter provision is expected greatly to reduce the number of parties eligible to field candidates in general elections; over 20 parties ran candidates in the 1996 elections.

There are no restrictions in law or practice against women, indigenous groups, or other minorities voting or participating in politics; however, they are underrepresented in government and politics. Women served as President and Vice President until January 1997, and a woman served as president of the CSE until January. Additionally, 2 of 16 Supreme Court justices are women; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 10 women to the National Assembly in October 1996. Two members of the National Assembly claim indigenous heritage.

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

With some exceptions, human rights groups operated without government interference. Major organizations included the Permanent Commission for Human Rights (CPDH), the (ANPDH), and the Nicaraguan Center for Human Rights (CENIDH). The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

On March 29, Amnesty International (AI) reported that the Government accused Vilma Nunez de Excorcia, President of CENIDH, of obstructing police. On June 2, AI reported that she had received telephonic threats to her life. Nunez alleges that the death threats are because she spoke out against Government complicity in alleged army-ordered assassinations of FUAC leaders. When she asked the police to investigate, they concluded that her charges were unfounded and closed the case.

The Human Rights Ombudsman's Office (PPDDH), the only autonomous government-financed human rights office, continued to focus on filling staffing gaps and organizing its scope and activities. In 1995 the National Assembly passed a law creating a Human Rights Ombudsman's office, with the Ombudsman to be elected by the Assembly. In June, after a delay of nearly 5 years, the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman and Julian Corrales as Deputy Ombudsman. Perez relied on the participation of most local human rights organizations to select the Special Ombudsmen for Children's Issues and for Women Issues, Carlos Emilio Lopez and Patricia Obregon, respectively. In December he selected the Special Ombudsman for Indigenous Affairs, Rev. Norman Bent. The PPDDH also began to investigate actively human rights violations during the year. Perez began demonstrating the effective independence of his office from the Aleman Administration when he publicly criticized the Government for violating the constitutional rights of former Defense Minister Jose Antonio Alvarado by nullifying his repatriation application (see Section 2.d.). However, he has been reluctant to exercise the full powers of his office.

In July 1997, the Organization of American States' (OAS) Technical Cooperation Mission (TCM), opened at the request of the Government and continues to operate. The TCM is a small successor organization to the OAS International Support and Verification Commission. The TCM focuses on the 13 municipalities that were affected most adversely by the decade-long civil war, where the TCM works on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services help maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a 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 operate in areas that are without any governmental presence, and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

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

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition; however, in practice the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

*Women.*—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. The National Police reported that of 20,905 reports filed by women between January and August, more than 11,086 concerned physical or sexual abuse.

The Criminal Code provides punishment for sexual abuse, and stipulates that any person convicted of physically abusing or raping another person will face from 9 months to 4 years in prison. The National Police, as well as local human rights groups, have confirmed that while police sometimes intervene to prevent domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in a not guilty verdict due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The 1996 Law against Aggression against Women reformed the Criminal Code to make domestic violence a crime and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety.

According to statistics from the National Police, the police received 1,181 rape complaints during the year. In 1999 there were 1,367 reported instances of rape. Many women are reluctant to report abuse or file charges due to social stigmas attached to victims of rape.

The police manage 18 women's commissariats in 14 cities. Each commissariat is located adjacent to a police station and is staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited to a far smaller number. The commissariats provide both social and legal help to women and mediate spousal conflicts.

In October 1999, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega. Narvaez asserted that Ortega sexually molested and harassed her from the time she was 11 years old until she filed charges against him in 1997. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1998, Narvaez championed an effort to persuade the National Assembly to withdraw Ortega's immunity so that she could bring a lawsuit against him; however, the Assembly did not take up the issue of Ortega's immunity by year's end. In November 1999, the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges. On September 27, the Government responded that the claims made by Narvaez were unfounded and merited no further investigation. The Government argued that the State did not violate her constitutional rights because the legislative and judicial branches gave her case due consideration. The IACHR has not responded to the Government.

Prostitution is common, and there were credible reports that some women were trafficked and forced into prostitution (see Sections 6.c. and 6.f.). In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, 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 their health 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.

Although the Constitution provides for equality between the sexes, reports of discrimination against women are persistent and credible. According to a poll released on April 16, women comprise about 61 percent of the public labor force, a number much larger than that in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men making sometimes twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women do. Women constitute the majority of workers in the traditionally low-paid education

and health service sectors. According to a 1998 report, women have equal or somewhat better access to education than men, especially in urban areas.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the current status of women in the workplace. The Program for Reform and Modernization of the Public Sector, directed by the Vice President, collects statistics on salary differences and hiring techniques in the public sector, thereby publicizing the issue of discrimination. However, it is unclear what measures have been taken to actually counteract such discrimination in practice.

*Children.*—The Government expresses its commitment to children's human rights and welfare publicly, but does not commit adequate funding levels for children's programs or primary education. A constitutional provision known as the "6 Percent Rule" automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs. Children 18 years of age and younger made up approximately 53 percent of the population. A 1995 study showed that as many as 40 percent of all children are not registered officially. Education is compulsory through the sixth grade, but this provision is not enforced. The study also indicated that 45 percent of children do not attend school. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children increasingly were involved in crime both as victims and as perpetrators. From 1993 to 1997, offenders under the age of 17 increased from approximately 1.5 percent to approximately 15 percent. From January to August, 29 minors died as a result of violent crime. During the same period, victims of rape included 222 children under the age of 13, and 351 between the ages of 13 and 17. Children, especially boys in street gangs, contributed to an ongoing rise in the crime rate, which resulted in a police crackdown on youth gangs in August that involved over 500 juvenile arrests. During the year, there were about 3,500 reported cases of child abandonment and abuse, 1,506 cases of children who were hospitalized for severe burns, and 105 children who disappeared. It is estimated that about 63 percent of sexual abuse victims are under the age of 18, and that 36 percent are younger than 13. Over 676,000 children are at-risk and exposed daily to violence, abuse, exploitation, and neglect. According to UNICEF, this number is expected to increase because the population of children under 5 years, living on the streets, is increasing.

As a result of the Child and Family Law, which took effect in late 1998, juvenile prisoners could no longer be held in adult facilities, or for more than 24 hours without being charged. However, implementation of the new law proved problematic. In August 1999, 17-year-old Modesto Perez ambushed and killed his former employer, National Assembly deputy Jose Cuadra, after Cuadra fired Perez. Public outrage at the inability of the system to punish Perez effectively was directed primarily at the new law, in particular the provision that minors charged with crimes be prosecuted in new juvenile courts, where the possible penalties for serious crimes are less than those imposed on adults. In addition, the juvenile courts were operational only in Managua and Ciudad Dario; consequently, minors charged with crimes elsewhere in the country often avoided prosecution entirely. The National Assembly, the Catholic Church, and other organizations spoke out in favor of reforming the law to allow the prosecution of minors who commit serious crimes as adults. In September a jury found Perez guilty of murder, and he was sentenced to 30 years in prison.

Child labor is a problem (see Section 6.d.).

The First Lady has established several commissions on children's issues. Mrs. Aleman headed the National Council for the Protection of Children and the National Council for the Eradication of Child Labor.

According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua, and near border cities and ports. According to press reports, UNICEF noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted growth in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. A 1999 survey by the NGO Casa Alianza reported that of 520 children, 504 admitted to consuming drugs, usually glue. There have been cases of adults who exchange sexual favors with street children in return for glue.

There were cases of trafficking in children for the purpose of forced prostitution (see Section 6.f.). In 1999 a National Forum against the Sexual and Commercial Exploitation of Children and Adolescents was created to fight for children's rights and bring this issue to the public attention; however, it failed to take any actions during the year.

*People with Disabilities.*—In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 600,000 citizens with some type of disability, only 3 percent of whom receive 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 NGO's, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled. In the spring, the Ministry of the Family announced that it would cut a considerable amount of financial support for the Blue Bird Protection Association that shelters about 100 disabled persons, aged from 10 months to 40 years old, who are considered unable to care for themselves. Although the Ministry agreed to cover a significant percent of the Association's budget, its failure to do so forced the Association's employees to go without pay, and a significant decrease in medicinal, clothing, and food supplies. Many organizations centered on helping the disabled called for the Government to focus more attention on the needs and interests of the disabled.

*Indigenous People.*—Indigenous people constitute about 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the four major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo. The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils. There is also an armed faction of the same name; the extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups mix banditry with a genuine desire to force the Government to devote more resources to their under-developed region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. The total strength of Yatama armed groups was estimated at 210 men.

In September 1999, President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes about the boundaries of communal Miskito land. However, these provisions had not been implemented at year's end which has caused recent threats of remobilization by the Yatama groups.

The Supreme Electoral Council (CSE) ruled in August that the Yatama political party did not meet the qualifications to participate in the November 5 municipal elections. The party attempted to enter into a political alliance with two other Atlantic-coast parties, but the CSE determined that the alliance failed to meet the electoral eligibility requirements for the municipal elections, thus eliminating Yatama's participation in the November elections. Yatama leader Brooklyn Rivera led protests against the party's exclusion in Puerto Cabezas and other areas of the RAAN. In subsequent clashes between October 26-29 between police and Rivera's followers, several followers were injured and scores were arrested. One person was killed; however, it was unclear whether his death resulted from the disturbance. There were high levels of abstention on election day mainly due to dissatisfaction with the CSE ruling. Consequently, the PLC and the FSLN won all the contested

offices in the RAAN. Since the electoral body ruled late in the year on the eligibility of the alliance, it granted Yatama automatic qualification for the 2001 national elections.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources. Indigenous people claim that the central Government often made decisions without adequate community consultation. 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. Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas have no access to modern health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

*National/Racial/Ethnic Minorities.*—Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous groups from both the RAAN and the RAAS sometimes linked the Government's failure to expend resources in support of the Atlantic coast population to the existence of ethnic, racial, and religious (principally members of the Moravian church) minorities that predominate in that region.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to organize voluntarily in unions, and this right was reaffirmed in the new Labor Code that entered into effect in 1996 and replaced the antiquated 1944 code. 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. The new code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Less than half of the formal sector work force, including agricultural workers, is unionized, according to labor leaders. Union membership continued to fall during the year. The unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike. 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 Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. In 1999 the national construction workers' union was about to begin a legal strike after having spent 2 years following all the necessary measures. The Ministry of Labor would have declared the strike legal, but the strike was avoided when the construction branch of the Private Enterprise Council finally agreed to negotiate with the union. Legal strikes are rare, and there was only one during the year. The Labor Ministry asserts that it would take approximately 6 months for a union to go through the entire process to be permitted to have a legal strike. Observers contend that the process is inappropriately lengthy and so complex that there has been only one legal strike since the 1996 Labor Code came into effect.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. This practice is used sometimes by business leaders to stymie unionization attempts.

Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to bargain collectively, and this right was reaffirmed in the 1996 Labor Code. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the reformed Code, companies engaged in disputes with employees must negotiate with the employees'

union if the employees have thus organized themselves. 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.

There are 29 enterprises operating in the government-run free trade zones (FTZ), employing approximately 24,000 workers. In addition, there are 4 authorized private FTZ's; the 9 enterprises in these zones employ some 2,000 workers.

Approximately half the workers in the government-run FTZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic.

There have been several allegations of violations of the right to organize, primarily at the Las Mercedes FTZ, the largest in Managua, with 15 enterprises and approximately 19,000 workers. The Ministry of Labor has investigated these allegations and has concluded that employers have acted within the law. Notwithstanding the legality of employer actions, the result has been to weaken significantly an important union in the FTZ, the Sandinista Workers Central (CST). The CST has declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required majority of the workers. Consequently, the Ministry of Labor consistently has ruled the strikes illegal. Employers then fire the striking workers based on the Ministry's ruling.

In essence, employers have taken advantage of the extensive administrative requirements required to declare a strike legal and the CST's failure to follow the prescribed rules.

In April Chentex, a Taiwanese-owned textile factory, tried and failed to negotiate a new collective bargaining agreement with an independent union, the Nicaraguan Workers Central (CTN), and the CST. Negotiations broke down because the CST demanded an increase in the factory minimum salary from \$62-115 (800 to 1,500 cordobas) per month. Although management considered this an inordinate increase, 1,500 cordobas falls below the Government's estimate of 1,600 cordobas per month for a basic basket of goods. After 50 CST workers participated in a work stoppage, management requested and received permission to fire 11 of the 13 CST board members based on participation in an illegal strike. All dismissed members filed an appeal before the labor court, which subsequently found that the workers had been fired properly. The CST appealed that finding to an appellate court, which had not issued a decision by year's end. In addition, scores of workers were fired while many others resigned to show their support for the fired board members.

Meanwhile the CST organized a series of work stoppages leading to the occupation of the factory on May 2. Chentex then filed criminal charges against the 9 board members for damaging property, kidnapping management personnel, and injuring security persons during the takeover. Chentex also later filed a petition to have the CST's legal status dropped because after the firings and resignations, they failed to meet the legal minimum of members. There are ongoing negotiations between the union and Chentex to resolve these issues; however, these negotiations were stalled at year's end.

On January 6, Mil Colores, a textile factory, asked the Ministry of Labor for permission to fire 50 workers as a money-saving measure, included were 26 of the 34 workers who petitioned, on January 11, to recertify the CST union. Another union—the Mil Colores Workers Union (MCWU)—had been certified earlier in the month. The Ministry denied the CST's request because it claimed that CST failed to meet the 20-member minimum requirement for certification. The CST alleged collusion between the Ministry and the company, specifically that the Mil Colores request to the fire workers was backdated to precede the attempt to form a union. On January 27, during a CST-organized protest protesters broke through the factory doors, leading to the hospitalization of over 30 persons and the arrest of another 5. Shortly thereafter the company filed criminal charges against 68 workers for involvement in the incident. The president of Mil Colores subsequently dropped all charges and came to an agreement with the CST to rehire dismissed workers on a case by case basis.

In October 1999, JEM III, an American-owned company, laid off over 100 workers, reportedly because of the seasonal nature of their product—flannel shirts. The company began negotiations with the CST over these and future layoffs. In December 1999, after failure to reach an agreement, the CST workers went on strike. The company immediately petitioned the Ministry of Labor to declare the strike illegal, which would allow the company eventually to fire the strikers. However, the Ministry declared the strike legal, and the workers went back to work after obtaining minimum concessions. The JEM III strike is the only strike at the FTZ ever to be found legal by the Ministry of Labor. However, in January, another 70 workers were

fired, including most CST board members. Because of various internal problems, the CST did not grieve the firings and the Ministry had no further involvement. However, the net effect was that the CST disappeared from JEMIII.

In response to longstanding complaints by union representatives that the Ministry of Labor did a poor job of enforcing the Labor Code in the FTZ's, 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 1980's, 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, three times the minimum wage.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor but does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor continues to report that some children were forced to beg by their parents, and that some were rented by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There have been reports this year of trafficking in persons for forced labor or of trafficking in women and girls for the purpose of forced prostitution (see Section 6.f.).

In July the Labor Ministry investigated charges of forced labor at a textile factory located outside the FTZ, but which operates under the same rules and enjoys the same tax incentives as FTZ companies. The inspector verified that some 34 workers had begun work at 7:00 a.m. the previous day and were still working at 10:00 a.m. the next day when the inspector arrived—a total of 27 hours. The company produced signed documents from the workers stating that they had agreed voluntarily to work extra hours. Privately, the workers stated that they had signed the document for fear that they would be fired if they refused. Moreover, they understood that they would work only 2 extra hours. Although there is no evidence that the company made any threats, the fact that all 34 workers who were requested to work overtime agreed to do so indicates that the workers believed they would be fired if they refused. The workers were only provided a piece of bread and a bottle of soda during the night that they spent at the factory. The human resources manager who allowed the inspector into the factory subsequently was fired. The Ministry of Labor issued the company a warning and threatened heavy fines and possible closure if the problem reoccurred.

*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. The country has comprehensive labor legislation to protect children up to age 18. The Constitution also provides protection from any type of economic or social exploitation. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

In mid-September, the Government ratified ILO Convention 182 regarding the worst forms of child labor; most of its provisions already were incorporated in the Labor Code.

There are no reliable figures regarding the number of working children, but the Government reports that child labor occurs in both urban and rural areas. The latest official figures estimate that approximately 161,000 children between 10 and 19 are employed while CENIDH estimates that there are approximately 322,000 working children.

Over 140,000 children are employed in rural areas at coffee, tobacco, rice, and banana plantations. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging.

According to a 1998 UNICEF report, approximately 42 percent of children between the ages of 6 and 9 work. A study published in 1996 by the National Commission against Child Labor concluded that over 161,000 children between 10 and 19 years of age work, including approximately 109,000 employed in rural areas such as coffee, tobacco, rice, and banana plantations. The study found that 6,219 children work in urban areas as beggars, or selfemployed car washers or parking attendants. Comprehensive labor legislation, intended to protect children up to 18, prohibits child labor in areas such as mines and garbage dumps, and imposes heavy fines for illegal employment. 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 free trade zones. However, there have been some exceptions due to most families' need of extra income. The 1996 Labor Code authorizes children to work under certain circumstances, provided they are no younger than 14 years of age and have parental permission.

Child prostitution is a serious problem. Although national figures are not available, a study conducted in Managua in 1998 found that 40 percent of the 1,200 prostitutes in the city were under the age of 18. No numbers were available for other cities, but in 1998 UNICEF reported that teenage sexual exploitation had increased in recent years in rural areas, border cities, ports, and in Managua.

The Ministry of Labor has begun to take steps to combat child labor (See Section 5). It has signed agreements with nightclubs and restaurant owners whereby these establishments pledged to comply with child labor laws. In 1999 it issued a resolution specifically prohibiting the employment of minors in the FTZ's.

The Ministry of Family sponsors several programs that target working minors. These programs, which cover up to 10,000 children nationwide, include childcare services, return-to-school programs, and technical and vocational training. The programs also include training for parents and teachers. The Ministry of the Family, in conjunction with the Ministry of Education, established a program to keep 647 children off city intersections where they wash windshields. The program provides housing for the 75 percent of these children who are homeless and schooling for the 60 percent who are school dropouts.

Despite comprehensive legislation prohibiting child labor, structural economic problems have prevented its eradication. The Government has been able to make progress in combating child labor in the "formal sector"; i.e., that sector of the economy which is regulated by the Government, such as factories, construction, restaurants, and nightclubs. Most of the problems exist in the "informal sector," which is not regulated by the Government. Workers in this sector, which is characterized by a lack of an obvious employer, include street vendors, windshield washers, parking lot attendants, garbage dump scavengers, beggars, prostitutes, and agricultural workers.

*e. Acceptable Conditions of Work.*—The minimum wage is set through tripartite (business, government, and labor) negotiations, and must be approved by the Legislative Assembly. A new minimum wage scale took effect in August 1999 and, although by law it was to be revisited 6 months later, has not been adjusted since. In November the Ministry of Labor called for new negotiations on the minimum wage. The various groups met sporadically, but no new minimum wage had been set by the year's end. Minimum wages vary by sector; monthly rates are as follows: Agriculture, \$36 (450 cordobas plus food); fisheries, \$56 (700 cordobas); mining, \$68 (850 cordobas); industrial manufacture, \$48 (600 cordobas); electric, gas, and water utilities, \$72 (900 cordobas); construction, \$96 (1,200 cordobas); restaurants and hotels, \$72 (900 cordobas); transportation, \$72 (900 cordobas); banking, \$80 (1,000 cordobas); community and social services, \$56 (700 cordobas); central and municipal government (includes health and education employees), \$44 (550 cordobas); and FTZ \$64 (800 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. It falls below the Government estimate of what an urban family must spend each month for a basic basket of goods (\$128, or 1,600 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The Code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The Code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, the Government does not enforce the law adequately. There are reports that the country was a source for the trafficking in women and children for purposes of prostitution in Mexico. According to the reports, procurers from Mexico induce young people to travel there on the promise of legitimate employment. Upon their arrival, they are sold to the owners of brothels and then forced to work as prostitutes to repay their

debts. Children are trafficked in Guatemala by organized crime rings for the purposes of prostitution. In July 1999, the media reported that Nicaraguan girls had been lured to Guatemalan clubs to work as dancers and waitresses but upon arrival were forced into prostitution.

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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 September 1999, President Mireya Moscoso replaced former President Ernesto Perez Balladares. The Constitution provides for an independent judiciary; however, the judicial system is subject to corruption and political manipulation.

Panama has had no military forces since 1989. In 1990 the Government created the Panamanian Public Forces, which consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). In 1994 a constitutional amendment formally prohibited the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Judicial Technical Police (PTJ), a semiautonomous body with leadership appointed by the Supreme Court, is a separate branch of law enforcement under the Attorney General's Office, and performs criminal investigations in support of public prosecutors. The Ministry of Government and Justice oversees the PNP, the SMN, and SAN; the Ministry of the Presidency supervises the SPI and the PTJ. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The service-oriented economy uses the U.S. dollar as currency, calling it the Balboa. Gross domestic product grew by 3.2 percent in 1999, but growth estimates for 2000 range from 2.3 to 2.8 percent. While economists predicted higher growth during the year due to the transfer of the Panama Canal and related property, economic benefits were not yet evident at year's end. Poverty persists and income distribution remains extremely skewed with large disparities between rich and poor. Unemployment is estimated at 13.3 percent; however, private economists believe that it may be higher.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Abuse by prison guards, both PNP and civilian, is a recurrent problem of the prison system; however, there were reports that incidents of abuse decreased during the year in one prison. Overall prison conditions remained harsh, with occasional outbreaks of internal prison violence. Arbitrary detention and prolonged pretrial detention are problems. The judiciary is subject to political manipulation, and the criminal justice system is inefficient and often corrupt. There were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches. Police conduct towards public protesters improved. The media is subject to political pressure, libel suits, and punitive action by the Government. Violence against women remains a serious problem. Women hold some high positions in Government, including the presidency; however, discrimination against women persisted. Discrimination against indigenous people, blacks, and ethnic minorities continues to be a problem. Worker rights were limited in export processing zones. Urban and rural child labor are also problems. Trafficking in persons, particularly Asian and South American immigrants, is a continuing problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

There was little progress on past cases. Four PNP guards at the Tinajitas prison were on administrative duty and awaiting trial in the March 1997 beating death of detainee Jose Luis Alvarado at year's end.

In January 1999, the Supreme Court dismissed the case against the PNP personnel responsible for the June 1997 shooting death of Ngobe-Bugle tribe member Juan Santos Chobra in the community of Puente Blanco. The Court ruled that the shooting was accidental after reviewing videotaped evidence of the shooting.

In September 1999, President Moscoso cancelled the pardons granted by former President Perez Balladares to 33 former civilian and military collaborators of former ruler General Manuel Noriega. One such official reportedly was involved in the execution of 11 persons following a failed coup attempt against Noriega in 1989. In this specific case, a Superior Court confirmed Moscoso's order to cancel the pardon granted by former President Perez Balladares. It was unknown whether similar cases were pending at year's end.

In September 1999, the authorities discovered an unmarked grave containing two bodies on the grounds of a former military base near Panama City. On August 23, Public Ministry authorities stated that one set of these remains belonged to leftist leader Heliodoro Portugal. Portugal had been reported missing since May 1970, during the early stages of the military regime. The identity of the second body remains unknown. Long-standing rumors that there are other gravesites scattered around the country dating from this period continued to circulate during the year. In December the authorities resumed their search for remains. At that time, human remains of five individuals were excavated from a former military garrison site. The investigation continued at year's end. Also in December, President Moscoso announced plans to create a "Truth Commission" to follow up on such cases.

On October 15, approximately 60 unknown assailants, widely believed to be members of a Colombian armed group, attacked the village of Nazaret, near the border with Colombia. One 11-year-old girl was killed, and approximately 12 persons were wounded, including 3 members of the PNP. The Government had not established firmly responsibility for the attack at year's end; however, some observers believe that members of the guerrilla group the Revolutionary Armed Forces of Colombia (FARC) were responsible. Following the attack, two police officers in Darien reportedly tortured an Embera Indian suspected of aiding Colombian rebel groups (see Section 1.c.).

There were some unconfirmed killings of homosexual men.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Hector Gallego Committee for Disappeared Relatives maintains a list of 120 persons who disappeared during the military dictatorships of 1968-89 and are still unaccounted for.

FARC guerrillas reportedly kidnaped persons in the Darien region along the border with Colombia. In 1999 three individuals were abducted and held for ransom; only one had been released by year's end. There were reports that the FARC harassed and even killed Darien residents. One girl was killed by an armed group in October (see Section 1.a.). There were unconfirmed reports that Colombian citizens have been kidnaped and then retained in Panamanian territory.

*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 were reports of excessive use of force and inhuman punishment against prison inmates. There also were reports that police used physical violence and psychological threats to control detainees during the initial arrest, interrogation, and holding phases.

In December Indian community leader Francisco Olivo complained that two police officers in Darien tortured an Embera Indian after he was arrested and accused of aiding Colombian rebel groups. The torture incident reportedly occurred soon after an October attack on Nazaret (see Section 1.a.). Police Director Carlos Bares responded by saying that he would order an investigation and would punish anyone found responsible. An investigation continued at year's end.

The 1997 legislation providing the legal basis for the PNP includes specific guidelines for 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. However, there is no follow-on training in the use of force provided to the PNP.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal investigations. In both organizations, a defined legal process is followed in which, upon completion of the process, the respective director of the PTJ or PNP has the final authority to determine the disposition of each case. The PNP deputy director and secretary general address human rights problems that arise in the police force. The offices of professional responsibility are well known in the community, and the rate of complaints has remained roughly constant in both offices.

The PNP Office of Professional Responsibility receives on average six complaints per week, of which 30 to 35 percent result in some type of punitive action. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution. By

November the authorities had dismissed 16 officers for corruption, burglary, and/or bribery. A total of 206 other cases were under investigation as of November; 108 cases were dismissed; 82 cases were still under investigation.

The PTJ receives complaints from the public, and officers can make anonymous complaints of corruption and other problems. By October the PTJ Office of Professional Responsibility had conducted 179 investigations, which resulted in the dismissal of 52 agents. The majority of the cases were for mishandling official property such as misplacing guns or radios (22 cases), and personal conduct or improper behavior when off duty (30 cases).

In May the PNP disciplinary committee exonerated a sergeant and three officers for the March 1999 shooting in Pueblo Nuevo, and concluded that they acted in self-defense, and that the victim was not a minor as originally reported. According to residents of the neighborhood, the victim was lying on the ground in handcuffs at the time of the shooting.

Corruption among police officers also remains a problem. By October the PTJ Office of Professional Responsibility had dismissed 20 agents for corruption. In some cases, PNP and PTJ directors enforced other disciplinary measures against officers with proven involvement in illicit activities; however, both organizations only react to egregious abuses, due to a lack of staff, independence, and institutional priority.

During the year, police generally exercised restraint in their treatment of street protesters, despite an increase in the frequency of street demonstrations. However, police commonly used tear gas against protesters.

Police arrested and detained children for minor infractions during neighborhood sweeps (see Section 5).

The FARC guerrillas and the paramilitary forces of the United Self-Defense Forces of Colombia (AUC) share a long history of spillover of violence from Colombia into the border area on the Darien peninsula, including killings, kidnaping, robbery, and various forms of harassment of innocent bystanders (see Sections 1.a. and 1.b.).

Despite some technical improvements and some training of prison guards during the year, overall prison conditions remained harsh and in some cases, threatening to prisoners' health and safety, due largely to budget constraints. The current prison system has over 9,018 prisoners but an allotted capacity of only 6,893 persons. Most prisons are dilapidated and overcrowded. Many of the problems within the prisons stem not only from the obvious overcrowding but also from the lack of separation of inmates according to the type or severity of the crime committed. Medical care is inadequate and sometimes withheld from inmates. Tuberculosis, AIDS, and other communicable diseases are common among the prison population. The Corrections Department does not have an ambulance to take prisoners to hospitals in case of emergencies. Over the last 4 years, 10 inmates have been killed and 25 injured due to gang violence. In June gang members at La Joya prison stole keys and entered the cell block of a rival gang armed with knives, murdering two prisoners and wounding another five.

Abuse by prison guards, both PNP and civilian, is a recurrent problem of the prison system. At year's end, there were 8 cases open with the Public Ministry regarding human rights abuses in the prisons, involving 25 civilian custodians and 6 members of the PNP. Pending cases include three custodians awaiting trial for abuses committed in La Joya prison in 1996 against prisoner Jorge Reyes Alvarez, and PNP guards awaiting trial for the beating death of prisoner Jorge Alvarado at Tinajitas prison (see Section 1.a.). In another high profile case, 10 members of the PNP are expected to be tried for beating naked prisoners with baseball bats in the (now closed) Modelo prison in 1998. The special prosecutor in charge of the 8 cases has handled 13 others since 1996. In 1999 six custodians from La Joya each were sentenced to 40 months in prison for having abused La Joya prisoner Carlos Cisneros Naranjo.

The main prisons in Panama City include La Joya (a maximum-security facility), Tinajitas, the Feminine Center (women's prison), and the Juvenile Detention Center. Two additional facilities, La Joyita and El Renacer, hold inmates generally accused of less serious crimes. In July foreign experts found that conditions at El Renacer have improved substantially and that the new prison director is attempting to make many needed reforms. Conditions at La Joyita remain problematic. The notorious island prison colony of Coiba is still in operation. There are also prisons of significant size in David and Santiago, and a large facility is planned for construction in Divisa in 2001. Small jails attached to local police stations around the country sometimes house prisoners for the entire length of their sentence. The authorities frequently do not address cases of abuse and neglect in these provincial jails due to their low profile in the prison system. Prison authorities hope eventually to close down these provincial jails and house all prisoners in the central jails.

The General Penitentiary Directorate (DGSP) largely depends on PNP officers to supply both internal and perimeter security at all prisons. Ideally, civilian corrections officers (or "custodians") with specialized training are supposed to handle inmates in all prisons, but funding constraints have prevented reform. Newly appointed DGSP Director Concepcion Corro wants to replace PNP guards with civilians, but has been granted only enough funding to train and fill 237 of 2,500 potential civilian positions. Custodians do handle inmates within La Joya, El Renacer, and the central women's prison, which uses only female guards. Because prison security rests almost entirely with the PNP, tensions arise between PNP officers and their civilian directors. In addition, PNP officers are untrained for prison duty and generally find the assignment distasteful, contributing to tension and abuses within the prison system. The DGSP does not have authority to discipline prison guards with criminal or civil sanctions; only the PNP disciplinary board can sanction a PNP agent or a custodian.

Prison conditions on the island penal colony of Coiba remained harsh and dangerous. In January 1998, a prison gang reportedly beheaded four prison escapees who belonged to a rival gang. The authorities concluded a lengthy investigation, and the case is expected to go to trial in 2001. Some of the accused prisoners are detained in the Panama City jail, and others are held in a jail in Santiago. The authorities have not yet brought anyone to trial in the case of eight murders that were discovered in 1998 in which both guards and prisoners have been implicated. In June the remains of three individuals were found on the nearby island of Jicarita. At year's end, the authorities had not yet determined the identity of the remains nor the circumstances of their deaths.

National prison authorities occasionally have discussed plans to close Coiba, but at year's end there were no definite plans for a shutdown. Although the facility no longer holds the most dangerous criminals, it continues to relieve overcrowding elsewhere in the prison system. The prison population at the island prison colony was reduced to 130 inmates, compared with 361 in 1999; none are pretrial detainees.

Geographic isolation and lack of communications on Coiba separate detainees from their attorneys and cause many to miss trials. Prisoners suffer from malnutrition and shortages of potable water. Medical care is practically nonexistent; prisoners with AIDS told reporters that they are isolated in small cells and that medical attention is provided once a year. Escapes from Coiba reportedly are common.

La Joya is the primary maximum security facility and houses most prisoners accused of serious crimes. La Joya has a planned capacity of 1,250, but houses over 2,000 inmates. Gang violence is a problem. In June in La Joya, 22 inmates with AIDS went on a hunger strike to protest their lack of access to medical treatment and their need for special permits to receive medicine.

Prison conditions in Colon province also are harsh. The Human Rights Commission of the Legislative Assembly described the Public Prison of Colon as a "time bomb," which fails to provide the most basic health needs. The prison frequently has no running water or functioning sewage system. The Commission also reported that prisoners at the Women's Prison of Colon suffer from overcrowding, semidarkness day and night, constantly wet floors, and virtually no health care. Colon's main prison, Nueva Esperanza, is under construction and is expected to absorb inmates from Colon's women's prison and the dilapidated public prison, both of which are scheduled to shut down. The new inmates are to be housed in separate sections of Nueva Esperanza, where construction was quite advanced at year's end, with some of the new cells already outfitted with bunks and toilets. However, inmates from the rapidly deteriorating Public Prison reportedly were apprehensive about being moved to Nueva Esperanza, where their access to the outdoors is expected to be limited. At year's end, male prisoners were housed at Nueva Esperanza; approximately 60 female prisoners are scheduled to be transferred there once construction is complete.

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. Juvenile detention centers throughout the country suffer from inadequate resources to provide for education or adequate supervision of children, many of whom spend the majority of their time in a bare cell.

The law and the Criminal Code provide for conditional release programs for inmates charged with minor offenses who have served a substantial part of their sentence, but this provision has not been implemented consistently in practice. A conditional release program was part of the organizational reforms that authorities introduced in July 1998. During the year, the DGSP provided information in a more timely manner to the President for her signature to allow such conditional releases.

The Government released some 800 inmates by year's end. The release program helped to relieve pressure on the overcrowded prisons.

Accusations by the media of corruption within the DGSP and its parent organization, the Ministry of Government and Justice, declined during the year. A criminal complaint filed in June 1999 by former National Penitentiary Director Enriqueta Davis against then-Minister of Government and Justice Mariela Sagel never was submitted to court.

The Government generally allows prison visits by independent human rights monitors. However, the authorities arrange appointments ahead of time, and monitors generally speak to prisoners in the presence of guards or administrators. Prisoners may not feel comfortable speaking freely under such conditions, and they have expressed fear of retaliation if they complain. Contrary to the previous year, there were no reports that officials from the Ombudsman's office had trouble gaining access to prisons. Justicia y Paz, the Catholic Church's human rights watchdog group, brings prison abuses to the attention of the authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respected this provision. Previously, the authorities often violated the provision that suspects are to be brought promptly before a judge; however, this provision was enforced more strictly during the year. Exceptions are permitted when an officer apprehends a person during the commission of a crime, or when disrespect by an individual towards an officer prevents the officer from carrying out his duty. 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.).

The Constitution also provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a judge. Contrary to previous years, the authorities did not violate often the 24-hour time limit by several days. Under law the preliminary investigation phase may last 8 days to 2 months, and the followon investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently grant extensions of these limits, leaving the accused in detention for a long period 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, the number of pretrial detainees increased slightly to 4,851, or about 58 percent of the prison population. This proportion is roughly the same as 1999, when 59 percent of prisoners were still awaiting trial. The average period of pretrial custody was 16 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common. For example, a man recently released from La Joyita Prison had spent 4 years in jail for a crime with a maximum sentence of 6 months. A legal mechanism exists to hold the Government financially accountable in cases where a detainee spends more than 1 year in jail but subsequently has all charges dismissed at a preliminary hearing. The dismissal must be either because the act of which the detainee was accused is not ruled a crime or because there is no evidence to link the suspect to the crime. Although this redress procedure is not complicated, few former detainees have employed it.

Legal alternatives to prison exist but are not implemented widely. Options such as house arrest have been used in some cases involving the elderly or minors, but require that the defendants have access to and understanding of their legal options.

The Constitution prohibits exile; there were no reports of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is 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. In July 1999, the Assembly passed a law that created an additional chamber to the Supreme Court, allowing then-President Perez Balladares to appoint three additional Supreme Court Justices before leaving office. However, in October 1999, the Assembly approved a proposal by the new Moscoso Administration to repeal the law.

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 lends itself to political tinkering and undue

interference by higher-level judges in lower-level cases in which they often have no jurisdiction.

The Attorney General appoints the superior and circuit level prosecutors. Previously, the Attorney General also appointed the Director and Sub-Director of the PTJ, but a 1998 law transferred this power to the Supreme Court, and requires Supreme Court approval of their removal from office. The same law also gave these two officials the power to name other PTJ officials without consulting the Attorney General. Opposition and media critics charged that this law increased the influence of the Supreme Court over criminal investigators, removed the generally positive oversight of the Attorney General, and made cooperation between prosecutors and the police much more difficult. On April 24, the Supreme Court approved Attorney General Jose Antonio Sossa's request to dismiss Director Alejandro Moncada of the PTJ, and Sossa did so the following day. Tensions between the Attorney General and the PTJ under its new director did not completely abate, although they appeared to have lessened by year's end.

At the local level, mayors appoint administrative judges, or "corregidores," who exercise jurisdiction over minor civil and criminal cases and who hold wide powers to arrest and to impose fines or jail sentences of up to 1 year. This system has serious shortcomings: Defendants lack adequate procedural safeguards; administrative judges outside of Panama City are usually not attorneys; many have not completed secondary education; and some engage in corrupt practices. In practice, appeal procedures are nonexistent. Affluent defendants tend to pay fines while poorer defendants go to jail, which contributes to prison overcrowding.

In 1998 the Inter-American Development Bank (IDB) loaned the Government \$18.9 million to reform the judicial system; the Government contributed another \$8.1 million to the program. The loan is being used at national and local levels to improve conditions in the court system, including better information management, revision of judicial procedures, and training of personnel. The loan also includes the construction of two "model courts" in San Miguelito and David, which are to hold offices for judges, prosecutors, and the PTJ in one building. The IDB's database linking prison population data with prosecutors and the courts, which is intended to facilitate the systematic release of prisoners who have served time beyond their potential maximum sentence but still are awaiting trial, was completed by year's end. Coordination between the IDB and the Government has improved with the 1999 appointment of Supreme Court Chief Justice Mirtza Franceschi de Aguilera. The Ministry of Economy and Finance has approved a second phase of the project and listed funding for the project in its budget request.

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 can order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials are 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 are appointed late in the investigation, and the prosecutor may have already evaluated the bulk of the evidence and made a decision to recommend trial or the dismissal of the charges. Public defenders' case-loads remained extremely high, averaging some 600 cases per attorney per year, compared with 550 cases in 1999. Only 3 new public defenders have been hired since 1992, making a total of 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.

In July 1999, the Supreme Court upheld a law popularly known as the "Faundes Law," which requires judges and other public officials to retire at age 75.

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 police failed to follow legal requirements and conducted unauthorized searches. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes. These may include 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 maintains that wiretapping with judicial approval is legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. Under the guidelines established by 1994 antinarcotics legislation, the Public Ministry may engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." The Supreme Court has not issued a final ruling on whether wiretapping is constitutional, but it remains 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, and the Government generally respects these rights in practice; however, the media is subject to political pressure, and the Government used libel laws to pressure journalists.

There is an active and often adversarial press and a broad range of print and electronic media outlets, including foreign newspapers, radio and television broadcasts, and cable stations. Six national daily newspapers, 4 commercial television stations, 2 educational television stations, and approximately 100 radio stations provide a broad choice of informational sources; all are privately or institutionally owned. A June 1999 law prohibits newspapers from holding radio and television concessions, and vice versa. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There is a noticeable concentration of control of television outlets in the hands of close relatives and associates of former President Perez Balladares, who is a member of the largest opposition party.

Panamanian and foreign journalists worked and traveled freely throughout the country. A 1978 law requires directors and deputy directors of media outlets to be citizens.

Under "gag laws" dating from the military dictatorship, the Government had legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority had discretionary powers to administer the libel laws, which provided for fines and up to 2 years in prison. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are exempted specifically from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials. In December 1999, President Moscoso ratified the Legislative Assembly's decision to eliminate these gag laws, improving the legal status of the media. However, legal actions against many journalists remained pending, and vestiges of the former gag laws still provide a means for penalizing journalists. Ombudsman Italo Antinori stated that there were at least 40 cases of journalists who had been accused of defamation.

Attorney General Jose Antonio Sossa ordered the arrest of *El Siglo* newspaper editor Carlos Singares on two occasions during the year for libel. Frontpage articles in *El Siglo* had accused Sossa of illicit activities, but the newspaper presented little proof to back up its allegations. President Moscoso defused the first arrest attempt, but upon the second arrest order Singares was jailed for 8 days. During his detention, he was held with approximately 50 common prisoners. While Singares was in jail, a court sentenced him to 20 months in prison for criminal libel against former President Perez Balladares. Singares appealed the conviction, and the appeal was pending at year's end.

In August police surrounded the homes of three journalists from *La Prensa* in an attempt to force them to testify in a criminal libel case filed against them by Attorney General Sossa; the police left after the journalists agreed to testify.

On July 14, a court sentenced Jean Marcel Chery, a reporter for the daily newspaper *Panama America*, to 18 months in jail or a fine of \$1,800 for criminal libel; Chery had reported a woman's allegations that police robbed her of \$33,000 during a search of her apartment. Chery appealed, and her appeal was pending at year's end.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against law professor and former Moscoso adviser Miguel Bernal for statements that criticized the PNP for allowing the decapitations of prisoners on Coiba Island (see Section 1.c.). In November 1999, there was a preliminary hearing on Sosa's charges, but no trial date was set by year's end. Bernal requested that the judge accept 37 witnesses; however, the judge rejected 34 of them. Bernal appealed this decision, which was pending at year's end.

Libel charges against La Prensa journalist Herasto Reyes filed by then-President Perez Balladares, after Reyes published a story in August 1998 accusing the administration of trying to cover up a government embezzlement scandal, still were pending at year's end.

In another 1998 case, a prosecutor acting on behalf of Attorney General Sossa used the libel laws to charge La Prensa journalists Gustavo Gorriti and Rolando Rodriguez with a "crime against the honor of the authorities" for a story accusing the Attorney General of accepting dubious checks in his unsuccessful 1994 campaign for a seat in the Legislative Assembly. Subsequent press reports suggested that the story was erroneous. The charges remained pending at year's end. Gorriti is facing six criminal libel cases.

In October a superior court magistrate sentenced former President Guillermo Endara to 18 months in jail for libel and slander against Minister of Canal Affairs Ricardo Martinelli, the former Director General of the Social Security Institution. The magistrate suspended the sentence on the condition that former President Endara not commit any other crime. Endara had not appealed the ruling at year's end.

On July 31, the Legislative Assembly passed legislation that limits access by citizens to specific information about international agreement negotiations and national security, to administrative files within the Solicitor General's office, and to information about such matters as private citizens' health, political leanings, marital status, police or prison records, and bank accounts. The measure took effect on August 2. The Solicitor General's office indicated that these restrictions already existed in practice, but were codified by the new law. Nevertheless, some legal experts challenged this interpretation and the media harshly criticized the measure. A Special Rapporteur from the Organization of American States also criticized the law during a September visit to the country. In November the Legislative Assembly amended Article 70 of the Solicitor General's Organic Law that regulated press access to files. The amendment states that the confidential classification of a given piece of information must be established objectively and pursuant to the conditions contained in the current laws, in order to prevent public officials from denying the release of information under the excuse of limited access. President Moscoso had not signed the amendment at year's end.

The Electoral Tribunal must approve election polling results before publication. During the year, the Government alleged that the newspaper El Panama America commissioned Gallup polls that were rigged to portray the Government negatively. In April 1999, the Tribunal had fined the El Panama America \$10,000 for failing to follow the approval procedure before printing Gallup poll results.

The press laws provide for the establishment of a censorship board. The board monitors radio transmissions and has the authority to fine stations that violate norms regarding vulgar and profane language.

In July Bishop Romulo Emiliani left the Darien region following anonymous death threats; he had criticized publicly Colombian paramilitaries, guerrillas, and drug traffickers.

The law provides for academic freedom, which generally was respected in both public and private universities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers. While police commonly used tear gas against protesters, unlike the previous year, police generally did not break up public demonstrations with birdshot, rubber bullets, beatings, or other abusive treatment. However, in June and July, students and workers protested government policy by blocking traffic for several hours on a major thoroughfare and by throwing rocks at the police; on those occasions, the police responded with tear gas, rubber bullets, and water hoses laced with chemical irritants. Injuries and arrests at other demonstrations were minimal but protesters nevertheless complained about abuse at the hands of the police.

The Constitution provides for the right of association, and the Government generally respects this right in practice. Citizens have the right to form associations and professional or civic groups. New political parties must meet strict membership and organizational standards in order to gain official recognition and participate in national campaigns. In February the Government refused to recognize a homosexual rights organization as a nongovernmental organization (see Section 4).

*c. Freedom of Religion.*—The Constitution, although recognizing Catholicism as "the religion of the majority of Panamanians," provides for free exercise of all reli-

gious beliefs, provided that "Christian morality and public order" are respected. The Government generally respects religious freedom in practice, and there is a broad diversity of religions. The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research. The Constitution dictates that Catholicism be taught in public schools, although parents have the right to exempt their children from religious instruction.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for unaccompanied minors in the Panama City area remains in effect although enforcement generally is poor.

The law provides for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In 1998 President Perez Balladares signed a decree granting 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 of temporary protection to displaced persons in the case of a large influx; the U.N. High Commissioner for Refugees (UNHCR) has criticized this provision, on the grounds that it puts persons at risk for forced repatriation within a few weeks of entering the country, without analysis of their possible refugee status. However, in practice this has not occurred. For example, the Government has not forcibly repatriated displaced Colombians, and many Colombians have lived in the country for years without formal refugee status. A small number of Colombians were granted asylum during the year. The Government generally cooperates with the office of the UNHCR and other humanitarian organizations in assisting refugees. However, the Government generally is reluctant to classify displaced Colombians as refugees, and therefore has opposed a permanent UNHCR presence in the country, although the UNHCR regularly visited border areas to aid displaced Colombians.

Large groups of displaced persons periodically flee violence in Colombia by crossing the border into Panama. In December 1999, some 800 Colombians fled violence in the Colombian town of Jurado and settled in the Darien town of Jaque. Since their arrival, the Government has cooperated with the Catholic Church and the U.N. High Commission for Human Rights to provide these displaced persons with humanitarian assistance. By the end of the year, some 200 Colombians remained in Jaque, while others returned to Colombia voluntarily or migrated elsewhere in Panama. In January President Moscoso granted provisional refuge to nearly 400 Colombian peasants who had fled fighting between guerrillas and the Colombian Navy.

The Government has 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 worked with the UNHCR and the Catholic Church to provide displaced Colombians with food, medical care, and access to public services, including schools and clinics. The Government provided these services in Jaque and other areas of the Darien. However, many displaced Colombians living along the remote Darien border area were beyond the reach of organized assistance from the Government, the UNHCR, or the Church.

There were reports early in the year that the police set up a small number of improvised explosive devices in close proximity to their stations to use against possible attacks by armed Colombian groups; however, there were no subsequent reports of the devices or of their use.

Aside from large groups of displaced persons, aliens are also picked up in the Darien in small groups. These immigrants are usually Colombian, but many Ecuadorians, Peruvians, and even Asians and Africans have been detained. All but 15 of a group of some 150 aliens detained in the Darien town of La Palma were deported or returned voluntarily to Colombia, despite protests by the Catholic Church that some of the Colombians in the group should be afforded refugee status.

Colombian migration, whether political or economic, has drastically increased pressures on local populations in the Darien and caused the displacement of Panamanian citizens. In addition, the Government suspects that Colombian migration conceals or attracts the presence of armed Colombian groups in the Darien Region. The effects of Colombian migration are also evident in Panama City and Colon, where large populations of Colombians have settled.

There were no other reports of the forced return of persons to a country where they feared persecution; however, throughout the year, there were unconfirmed reports that the police along the border, on an ad hoc basis, required Colombians to return to Colombia.

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

The Constitution provides citizens with the right to change their Government, and citizens freely exercised this right in the 1999 general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. The independent Electoral Tribunal arranges and supervises elections. While the Constitution provides for independent legislative and judicial branches, the executive dominates 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. The PRD won 34 seats in the Legislative Assembly; the Arnulfistas, 18; Solidarity, 4; the National Liberal Party, 3; MOLIRENA, 3; Democratic Change, 2; MORENA, 1; the Christian Democratic Party, 5; and the Civic Renewal Party, 1. During President Moscoso's first year in office, she maintained a one-vote majority in the Legislative Assembly through her Arnulfista Party members' coalition with other parties. However, on September 1, the coalition realigned, and the President's party no longer controls the legislature.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they generally are underrepresented in government and politics. However, women's participation has increased in recent years. Mireya Moscoso is the country's first female president. Women hold 7 of 71 Legislative Assembly seats; a woman served as the Assembly's first vice president in 1999–2000, and another woman holds this position for the 2000–2001 legislative season. Three women hold cabinet positions, and a woman is the director of the Public Registry. Two female judges sit on the Supreme Court, one of whom was elected Chief Justice in October 1999. In May 1999, an indigenous person served as President of the Legislative Assembly from September 1999 until August.

The Government provides semi-autonomous status to several indigenous groups in their homelands, including the Kuna Yala, Ngobe-Bugle, Embera Wounaan, Kuna de Madugandi, and Wargandi reserves. There are two Kuna legislators in the Legislative Assembly, one Ngobe, one part-Ngobe, and one Embera. Locally, tribal chiefs govern each reserve; they meet in a general congress at regular intervals. Neither the Madugandi nor the Embera-Wounaan reserve has its own dedicated legislators, but each has a separate governor. The Government continued the process of demarcating electoral districts within a new reserve created for the NgobeBugle. May 1999 elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

The law prohibits discrimination against any social, religious, or cultural group; however, naturalized citizens may not hold certain categories of elective office.

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

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations.

The office of Human Rights Ombudsman was created in 1996 and began to handle cases in 1998. The office receives 15 to 20 complaints daily, but does not have authority to investigate violations involving the administration of justice. Human Rights Ombudsman Italo Antinori, the first person to fill the position, sparred with the Perez Balladares Government constantly but reduced his public profile after the 1999 election of President Moscoso. Antinori's term runs until June 2004.

On December 27, President Moscoso announced her intention to create a commission to investigate crimes committed during the 1968–89 dictatorship.

In February Minister of Government and Justice Winston Spadafora denied a petition by the Association of New Men and Women, an informal gay rights organization, to register as a nongovernmental organization. Human Rights Ombudsman Antinori publicly supported Spadafora's decision.

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

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, religion, or political views. However, societal prejudices persist. Cases of discrimination are difficult to prove, and legal remedies for victims are complicated, time-consuming, and costly. There were some unconfirmed killings of homosexual men.

*Women.*—Domestic violence against women continued to be a serious problem. The 1995 Family Code criminalized family violence (including psychological, physical, or sexual abuse) but convictions are rare unless a death occurs. The PTJ registered 610 cases of domestic violence through September, compared with 451 through June 1999. The PTJ also registered 408 cases of rape and 102 cases of attempted rape through September, compared with 514 cases of rape and 135 cases of attempted rape in 1999. The Center for the Development of the Woman estimated that victims report as few as 20 percent of sexual assaults to judicial or law enforcement authorities. A widely acknowledged characteristic of rape is that it frequently occurs in the home. 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 for forced labor and forced prostitution is a problem (see Sections 6.c. and 6.f.).

Sexual harassment also is a threat to the equal status of women in society. According to a report by the Latin American Committee for the Defense of Women, in 1995, the latest year statistics were available, about 70 percent of female government employees reported having endured sexual harassment in the workplace—42 percent by their immediate supervisors and 18 percent by more senior supervisors. Anecdotal evidence suggests that many women are propositioned for sexual favors at the time of their initial job interview. A bill to criminalize sexual harassment failed to pass the legislature in 1995, and further legislation has not been introduced.

The 1995 Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively. According to Supreme Court Justice Mirtza de Aguilera, there should be 80 family judges; however, only 20 have been appointed due to lack of resources.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are on average 20 percent lower and increase at a slower rate. There are credible reports of irregular hiring practices based upon age and "appearance." A 1998 law reiterates protections laid out in the Constitution and prohibits discrimination on the basis of sex.

In 1998 the Government created the Ministry of Youth, Women, Children, and Family Affairs. The Ministry is largely a consolidation of departments previously operating in other government ministries, and its activities have not attracted a great deal of public attention. A number of private women's rights groups concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms.

*Children.*—Minors (under 18 years of age) represent 48 percent of the population. Education is compulsory through the equivalent of 9th grade, but children do not always attend school due to traditional attitudes, the lack of transportation, and insufficient government resources to enforce the requirement. The problem is most extreme in the Darien province and among indigenous groups. The Government furnishes basic health care for children through local clinics run by the Ministry of Health. A central children's hospital in Panama City operates on government funds as well as private donations.

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 Youth, Women, Children, and Family Affairs acts much like an ombudsman, and the office proposes and reviews laws and monitors government performance. Through September the PTJ registered 130 cases of child abuse, compared with 171 in all of 1999. Neglect of children is a problem. Malnutrition and inadequate medical care are generalized problems that are most severe among rural indigenous groups. Rural and urban child labor are problems (see Section 6.d.).

Juvenile courts continue to report a high incidence of juvenile delinquency in major urban areas. The authorities report a continued increase in such crimes as drug trafficking, armed robberies, kidnappings, car thefts, and murders that are attributed to juveniles. Youth participation in criminal gangs is an increasing problem. Police arrested and detained children for minor infractions during neighborhood sweeps.

*People with Disabilities.*—The Ministry of Education is responsible for educating and training disabled minors, while the Ministry of Youth, Women, Children, and Family Affairs protects the rights of disabled adults. Disabled children traditionally have been separated out from the general population; however, on February 4, the Legislative Assembly passed a law that requires schools to integrate children with special needs into the student body.

The Department of Labor is responsible for placing workers with disabilities in suitable jobs. Placement remains difficult despite a 1993 executive order granting tax incentives to firms that hire disabled employees. Disabled persons also tend to make only the minimum salary, notably less than employees without disabilities.

The 1998 municipal building code for Panama City requires that all new construction projects include handicapped accessible features, with fines from \$100 to \$500 for noncompliance. In 1999 a national law was passed with similar requirements for new construction projects, but it is not yet clear whether the law is to be enforced. Awareness of handicapped issues has increased over the past 5 years, and commercial establishments increasingly provide and enforce handicapped parking spaces. However, basic services such as sidewalks and handicapped accessible bathrooms are largely unavailable.

*Indigenous People.*—The Constitution protects the ethnic identity and native languages of indigenous people, requiring 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 number approximately 194,000 persons (8 percent of the population) and have the same political and legal rights as other citizens. The Government has passed legislation over the years setting aside indigenous reserves for the country's native groups, including the Embera-Wounan, Ngobe-Bugle, and Kuna. The Ministry of Government and Justice in Panama City maintains the low-profile Office of Indigenous Policy. Federal law is the ultimate authority on indigenous reserves, but local groups are allowed a great deal of local autonomy. For example, the Government recognizes traditional indigenous marriage rites as the equivalent of a civil ceremony. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination against indigenous people, although generally not overt, is widespread.

The Indigenous Affairs Commission of the Legislative Assembly, which was created in 1995, sponsored bills during the year to protect intellectual property rights, set up regulations for artisan fairs, and construct a health center. The Commission also sponsored a law that created the new 190-acre Kuna Wargandi reserve.

Though their population suffers from poverty and malnutrition, Kuna leaders have had the most success enforcing their territorial boundaries and maintaining their cultural integrity. There are two Kuna legislators, (one was President of the 1999–2000 Legislative Assembly); and they have more financial resources than the other groups. Other indigenous groups have not succeeded in using their autonomy to preserve their culture or develop economic independence. Most live in extreme poverty and isolation. Illiteracy among indigenous groups is at almost 50 percent, while the figure is only 10 percent among the population as a whole.

Since indigenous populations infrequently master Spanish and are unfamiliar with the country's legal system, they often misunderstand their rights and fail to employ legal channels when threatened. The problem is exacerbated by government inattention to indigenous issues. For example, the EmberaWounan in the Darien have been moved out of their reserves in increasing numbers due to encroachment by settlers, loggers, and Colombian immigrants. The Ngobe also are under threat due to the isolation of their reserves, encroachment by settlers, and generalized poverty. Indigenous workers consistently do not receive the basic rights provided by the Labor Code, such as minimum wage, social security benefits, termination pay, and job security. Even when working in close proximity of each other, indigenous laborers in the country's sugar, coffee, and banana plantations work under poorer conditions than their nonindigenous counterparts. Indigenous migrant workers are unlikely to be provided with housing or food, and their children are much more likely to work long hours of heavy farm labor than non-indigenous children.

*National/Racial/Ethnic Minorities.*—The country is racially diverse, and minority groups generally have been integrated into mainstream society with overall success. However, discrimination against the country's newer immigrants, especially Chinese, often is overt. The ethnic Chinese community is estimated to be about 120,000 persons. Cultural differences and language difficulties hinder and may prevent many Chinese immigrants from fully integrating into mainstream society. In addition, Panamanians often resent Chinese immigrants for their perceived indifference towards the culture of their adopted country and their perceived clannish behavior.

Racial slurs directed at Asians are used openly among the general population, and substantial numbers of Panamanian-resident Chinese frequently are treated as secondclass citizens. On the other hand, second and third generation Chinese are seen as distinct from recent immigrants, and generally are accepted in society. These established Chinese generally do not want to be associated with the recent arrivals from China.

In addition to Chinese immigrants, Middle Eastern and Indian residents also suffer from racially motivated discriminatory treatment. All three groups operate much of the country's retail trade, particularly in urban areas. Legal and illegal immigrants, especially Chinese, are accorded fewer legal protections than are citizens for their trade activities. A constitutional provision reserving retail trade to Panamanian citizens is not enforced in practice; however, immigrants legally cannot own their businesses, and sometimes encounter bureaucratic difficulties in practicing their professions.

Racism against blacks occurs, although it generally is expressed in more subtle terms. Blacks are conspicuously absent from positions of political and economic power. The country's white elite successfully marginalizes citizens with darker skin through preferential hiring practices in the private sector and manipulation of government resources in the public sector.

Antillean blacks, often identifiable by dress and speech pattern, are a particular target for racial slurs and poor treatment by citizens and by Spanish-speaking blacks. Their geographic clustering in the economically depressed province of Colon and poorer neighborhoods of Panama City heightens their isolation from mainstream society. Black Canal workers traditionally commanded significantly higher financial resources compared with blacks elsewhere in society, but many have retired or emigrated and there is some anecdotal evidence that the rest are being replaced by white personnel. Mainstream political elites generally are unconcerned by the economic issues of black populations and a concomitant rise in drug use, crime, and gang violence. Colon, the country's second largest city, suffers from a conspicuous lack of government services. Indifference among the general population is a major impediment to change.

Although such practices are illegal, clubs and restaurants often discriminate against black and indigenous individuals by denying them admission. In 1999 students protesting in front of Panama City's most popular nightclubs brought public attention to the issue. A draft bill to expand and support the Constitution by penalizing cases of discrimination for reasons of race, birth, social class, gender, and ideology failed midway through the year, but another bill was being prepared to penalize establishments that deny entry based on race.

Racial discrimination against all ethnic groups is evident in the workplace, where light-skinned persons are represented disproportionately in management positions and jobs that require dealing with the public (such as bank tellers and receptionists).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Private sector workers have the right to form and join unions of their choice, subject to the union's registration by the Government. A 1995 labor code reform package significantly increased workers' ability to establish unions. It streamlined the accreditation and registration process for unions, and established the minimum size at 40 workers. If the Government does not respond to an application within 15 days, the union automatically gains recognition and is accorded all rights and privileges under the law. The package also addressed a longstanding concern of the International Labor Organization (ILO) by allowing labor leaders to keep their union positions if fired from their jobs.

Approximately 10 percent of the total employed labor force is organized. There are over 250 active unions, grouped under 48 federations and 7 confederations representing approximately 80,000 members in the private sector. Neither the Government nor political parties outwardly control or finance unions; however, the Government and political parties do exercise political, ideological, or financial influence over some unions. The labor sector traditionally supports the Democratic Revolutionary Party.

The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides a small core of civil servants with the right to strike, bargain collectively, and evade summary dismissal, except for those in areas vital to public welfare and security, such as the police and health workers. However, the law has proven insufficient to protect the country's 150,000 public workers, because only a small percentage are members of the civil service and therefore enjoy job security. Public workers are not allowed to

form unions. 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, but no changes have been made.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its 10,000 employees, but does allow unions to organize and to bargain collectively.

In October the authorities detained, then immediately released, union leaders following protests by the SUNTRACS union.

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 exercise it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor has mechanisms to resolve complaints against antiunion employers. The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike; however, 130,000 public sector workers do not have the right to bargain collectively or to strike. While the right to strike applies to some 10,000 civil servants, it does not apply to the approximately 140,000 other government workers. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration. In March 1999, the Supreme Court ruled that an article of the Labor Code that obligated private sector strikers to submit to binding arbitration after a given period was unconstitutional.

Employers commonly hire temporary workers to circumvent onerous labor code requirements for permanent workers. Temporary workers are excluded from social security benefits, job security, and vacation time. 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 have proven ineffective in practice. The practice of blank contracts is, according to union sources, becoming more widespread.

Over the past 5 years, the Government has issued cabinet decrees restricting labor activity in export processing zones (EPZ's). Current EPZ legislation provides for collective bargaining with "representatives of employees" but makes no specific mention of trade unions. It 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 may be considered legal only after 36 workdays of conciliation are exhausted; if this requirement is not met, striking workers may be fined or fired. A 1998 ILO ruling noted that this regulation does not mention arbitration or specify procedures to resolve disputes in the courts, and that the Government should amend the EPZ labor regulations to conform with international norms; however, the Government has not made any changes in response to the ruling. Minimum wage provisions do not apply in the EPZ's.

*c. Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor by adults and children, and it generally does not occur; however, trafficking in women for forced labor and forced prostitution is a problem (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under 14 years of age with some exceptions, and also prohibits the employment of children under age 15 if the child has not completed primary school. However, a Government report estimates that 27,000 children between the ages of 12 and 14 work. Children under age 16 legally cannot work overtime, and those under age 18 cannot work at night. Children between the ages of 12 and 15 may perform light farm or domestic work, with the authorization of the Labor Ministry, as long as it does not interfere with their schooling. The Labor Code provides that children between the ages of 14 and 16 may work 6-hour a day shifts that do not exceed 36 hours a week. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. The Government acknowledges that it is unable to enforce some child labor provisions in rural areas, due to insufficient staff. In May the Government ratified ILO Conventions 138 and 182 establishing the minimum age to work and prohibiting the worst forms of child labor.

The Permanent Committee Against Child Labor asserts that 11 percent of all children between the ages of 10 and 17 are working or actively are seeking employment. Most of these children, both rural and urban, are believed to be working at their parent's insistence. Some of these children may be providing a substantial part of their family income.

Child labor violations occur most frequently in rural areas, during the harvest of sugar cane, coffee, bananas, and tomatoes. Farm owners usually pay 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 participates in a harvest, and parents are not willing to leave their children behind unattended. Many children also are involved extensively in subsistence agriculture producing coffee and sugar; they work with their families or are employed by independent plantations.

The problem of child labor in agricultural areas appears to fall most heavily on indigenous families, who often are forced to migrate out of their isolated reserves in search of income-generating activities. These frequent migrations not only interrupt schooling, but also leave the family vulnerable to sometimes unscrupulous contractors. The Government claims that it is unable to enforce child labor provisions in rural areas due to insufficient staff, such as in the coffee and banana plantations near the border with Costa Rica, where government resources are especially scarce. However, the lack of enforcement also can be attributed to widely held beliefs that indigenous persons are accustomed to poverty and hard work. In April the Minister of Labor suggested that child labor in the sugar cane fields was a "cultural tradition among the indigenous" and that children cutting sugar cane received more food during harvest time; these comments led to a series of critical newspaper editorials. A series of press reports during the year that exposed primarily indigenous child labor in sugar cane fields led to a series of letters to the editor from the public. Children in banana plantations also face difficult conditions (see Section 6.e.).

Urban supermarkets employ an estimated 1,500 children who bag groceries for tips. Despite the requirements of the Labor Code, some of the children are as young as age 9, and many of them work late hours. Some supermarket managers claim that the children actually are not employed by their firm, despite the fact that "baggers" conform to schedules, wear uniforms, and must comply with company codes of conduct. Urban child labor also includes domestic workers, street vendors, and car washers. The Government has demonstrated little interest in reducing the general problem of urban child labor, and has been unwilling to challenge the larger supermarket chains, where large numbers of children work. Urban child labor problems also include children working as street vendors or performers, washing cars, and running errands for businesses or local criminal groups.

The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranges from \$0.80 per hour to \$1.50 per hour, depending on the region and sector. This wage is not sufficient to provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earn the minimum wage or above. However, because unemployment is relatively high at 11 to 13 percent, an estimated 39 percent of the population work in the large informal sector and earns far below the minimum wage. This is particularly the case in most rural areas, where unskilled laborers earn \$3 to \$6 per day, without benefits; the Government does not enforce labor laws in most rural areas. In December 1999, a commission composed of representatives from government, the private sector, and labor convened to negotiate an increase in the minimum wage. The commission failed to reach consensus by the mandated date, and accordingly, in July responsibility for setting the new minimum wage was passed to the President, who issued a decree that raised the minimum wage by 13 percent, effective August 1. Public sector workers do not fall under the Labor Code and do not always receive the minimum wage.

The Labor Code establishes a standard workweek of 48 hours and provides for at least one 24-hour rest period weekly.

As is general practice in the country's public offices after elections, newly elected politicians and appointees began dismissing public workers immediately upon taking office to free up positions for loyal followers. The numbers of those dismissed were impossible to confirm. Despite ILO protest, public workers do not benefit from union protection or Labor Code standards. They were excluded from the most recent increase in the minimum wage. The Government has indicated that it would consider increasing their wages in 2001, if feasible.

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly broad and generally emphasize safety over long-term health hazards, according to organized labor sources. Inspectors from both the Labor Ministry and the occupational health section in the Social Security Administration conduct periodic inspections of hazardous employment sites and respond to complaints. Both agencies suffer from budget constraints and experience difficulty attracting qualified personnel and resources. Construction workers and

their employers are notoriously lax about conforming to basic safety measures, usually resulting in several deaths a year. In rural areas, the most severe oversight in basic safety measures occurs in the banana industry, where poisoning by chemical agents is a recurrent issue. Workers have complained of sterility and more recently of adverse skin conditions as a result of exposure to the chemicals. In several plantations, indigenous workers are 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 are not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

*f. Trafficking in Persons.*—The Penal Code prohibits trafficking in women and children; however, trafficking remains a problem. The Code provides for prison sentences of 2 to 4 years for the promotion or facilitation of the entry to or exit from the country of a person for the purposes of prostitution. In some circumstances, the penalty is increased to 6 years. The country is a transit point for aliens seeking to reach the United States, some of whom are trafficked into indentured servitude. There were reports of women being trafficked to Israel for purposes of prostitution. Prosecutions are rare. The authorities held several persons in custody for trafficking; they remained in prison awaiting trial at year's end. Corruption, legal technicalities, and lack of resources contribute to the Government's inability to combat the problem fully. Traffickers frequently bribe or evade local law enforcement officials.

Trafficking in women for sexual purposes occurs in the country, but the extent of the practice is unknown. Public prosecutors are investigating a case of Panamanian women smuggled into Israel in 1999 to work in brothels. Smugglers deprived the women of their money and their passports. Some of the women apparently were aware that they were traveling to work in the sex industry, others were not. The case was before a criminal court at year's end; one hearing was held during the year.

An estimated 30,000 aliens transit the country annually, generally posing as tourists. The majority of aliens transiting Panama originate in Ecuador and Peru, but a significant and increasing number come from India and China. Their travel is facilitated by a network of alien smugglers, travel agents, hotels, and safehouses. Anecdotal evidence indicates that illegal aliens transiting through the country are subject to frequent hardship. They commonly are deprived of adequate food and shelter. Chinese aliens are particularly vulnerable to poor treatment, and ultimately those trafficked for the purpose of forced labor are coerced into working off their debt, which may be as high as \$30,000, as indentured servants. The Government does not conduct educational campaigns to warn of the dangers of trafficking, and there are no programs to aid victims.

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## PARAGUAY

Paraguay is a constitutional republic with an executive branch and a bicameral legislature. The President is the Head of Government and cannot succeed himself. The bicameral Congress is made up of a 45-member Senate and an 80-member Chamber of Deputies. The Colorado Party has a small majority in both houses of Congress; however, factional differences within the party result in shifting alliances depending upon the issue. President Luis Gonzalez Macchi's "National Unity Government" was weakened in February when the Liberal Party withdrew from the Government, claiming that the President's Colorado Party refused to share power with its coalition partners. On May 18, members of two army units and a group of National Police officers loyal to former General Lino Oviedo attempted to overthrow President Gonzalez Macchi. The coup attempt lasted less than 1 day, and the majority of the military remained loyal to the Government. President Gonzalez Macchi declared and Congress ratified a controversial and unpopular state of exception on May 19, in response to the coup attempt; he lifted it on May 31. The Government used the state of exception to imprison those it suspected of involvement in the coup attempt and to limit public meetings and demonstrations. Although the Constitution provides for an independent judiciary, and the Supreme Court continued a reform process, the courts continued to be subject to pressure from politicians and others.

In general the military no longer plays an overt role in politics; the attempted coup was an exception to this practice. However, many citizens remained concerned about possible erosion of the military's apolitical status. Nonetheless, during the attempted coup in May, all but two groups within the armed forces remained loyal to the constitutional order. The national police force has responsibility for maintaining internal security and public order; while it is nominally under the authority of the presidency, in practice it reports to the Ministry of the Interior. The civilian authorities generally maintain effective control of the security forces. Members of the security forces committed serious human rights abuses.

Paraguay has a market economy with a large informal sector. The formal economy is oriented toward services, with less than half of the \$7.8 billion gross domestic product resulting from agriculture and industry. Over 40 percent of the population are engaged in agricultural activity, and approximately 10 percent of all families depend on cotton farming. Wealth continues to be concentrated, with both urban and rural areas supporting a large subsistence sector. Hydroelectric power and agricultural commodities (soybeans, cotton, lumber, and cattle) were the most important export items. The economy grew by approximately 0.5 percent in 1999 but experienced zero real growth during the year. Annual per capita income was approximately \$1,700.

The Government's human rights record remained generally poor, and there continued to be serious problems. The principal human rights problems included extrajudicial killings; torture and abuse of criminal suspects, prisoners, and military recruits; and extremely poor prison conditions. Arbitrary arrest and detention, lengthy pretrial detention, a general weakness within the judiciary, and infringements on citizen's privacy rights also were problems. The Government at times restricted freedom of the press. Following the May coup attempt, the Government arrested journalists and destroyed two radio stations; several journalists were threatened. The Government restricted freedom of assembly, and police used force to disperse protesters on several occasions, sometimes severely injuring citizens. Violence and discrimination against women, abuse of children, discrimination against the disabled and indigenous people, and incomplete protection of worker rights also were problems. There were instances of forced labor. Child labor and trafficking in women and girls also are problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—The police and military were responsible for some extrajudicial killings.

On January 8, police killed 3 persons while attempting to evict 400 landless peasants from a ranch that they had taken over. Nine policemen were injured during the incident.

In December in Itakyry, police shot and killed 10 men suspected of robbing an armored vehicle. One of the suspects, slightly wounded but alive when the police transported him to a local medical center, was dead upon arrival, with eight bullet holes in his body. At year's end the police were conducting an investigation.

No further information was available regarding the disposition of extrajudicial killings from previous years, including the following cases: Jose "Coco" Villar, whom police killed in June 1999; Guillermo Jara Ramirez, whom antinarcotics police killed in July 1999; and Fernando Aristides Gutierrez and Marcial Torres, recruits killed during their military service.

At least eight recruits died in questionable circumstances during the year, including 14-year-old Pedro Centurion, whom the military allegedly conscripted into service with false documents at 13 years of age against his wishes. In September he was shot and killed; the military claimed that he shot himself by accident. It was discovered later that Centurion was in fact an Argentine citizen. Human rights monitors, including a support group for families of military recruits, report that 104 recruits, most of whom were underage, were killed or died in accidents since 1989 while fulfilling their mandatory military service. Although military law requires that recruits be at least 18 years of age to serve in the armed forces (or 17 in the year of their 18th birthday), only an estimated 20 percent of those serving during the year met that requirement, and over 30 percent were 15 or younger.

In November the Government proposed an agreement to the Inter-American Commission on Human Rights (IACHR) regarding the deaths of 14-year-old military recruits Cristian Nunez and Marcelino Gomez. Military officers abandoned the two boys in the inhospitable Chaco region during a training exercise in 1998. According to the agreement, the Government accepted responsibility for the deaths of the boys.

The March 1999 assassination of Vice President Luis Maria Argana, which has been attributed widely to allies of then-president Raul Cubas Grau, led to political protests in which the police and civilian supporters of President Cubas fired on student demonstrators, killing 7 and injuring over 100. The Gonzalez Macchi Government made little progress in bringing those responsible to justice. Three suspects were convicted in the assassination; others remained at large. The authorities charged and imprisoned a number of suspects for the shootings of demonstrators in the plaza following the assassination, but the courts have not convicted any of them, and few have been released from confinement. As a result, many of those charged remain in legal limbo, with their political rights limited, although their involvement with the crimes never has been confirmed.

Former army commander Lino Oviedo, who played a prominent role in the downfall of the Cubas Government in 1999, and whose whereabouts were unknown after he fled Argentina (where he had received asylum) in December 1999, was arrested in Brazil in June and remains in prison in Brasilia. Several extradition requests for Oviedo are at various stages in the Brazilian justice system. He faces charges stemming from his alleged involvement in the March 1999 killing of Vice President Argana and seven antigovernment protesters. Two individuals with long criminal records, suspected of having participated in the Argana assassination and who were imprisoned in a federal police facility in downtown Buenos Aires, escaped from the jail in September. In November the authorities captured one of them in Ciudad del Este; at year's end he awaited trial in Asuncion. The other was thought to be hiding in Brazil.

Authoritarian regimes ruled the country until 1989, when dictator Alfredo Stroessner was overthrown by General Andres Rodriguez, who was elected President later that year. In 1996 an appellate court affirmed the convictions for human rights abuses of five Stroessner-era officials (former police Investigations Director Pastor Coronel and police officers Lucilo Benitez Santacruz, Agustin Belotto Youga, Camilo Almada Morel, and Juan Aniceto Martinez). Pastor Coronel died in detention in September.

The 1998 arrest of former Chilean dictator General Augusto Pinochet in the United Kingdom and his subsequent return to Chile drew renewed attention to extrajudicial killings and other abuses that occurred in Paraguay under the Stroessner regime. There were renewed allegations that Stroessner cooperated in Operation Condor, a regional plan to eliminate leftists. One human rights activist who was a political prisoner during that time has filed cases with Spanish judge Baltasar Garzon, who was preparing the case against Pinochet, and has provided him with documents from Paraguayan archives that he claims implicate General Stroessner in Operation Condor. There was no progress during the year on Operation Condor cases.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture as well as cruel, inhuman or degrading punishment or treatment; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. A human rights nongovernmental organization (NGO), the Committee of Churches, 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 Committee of Churches compiled numerous examples of police abuse.

In May during the state of exception several of the persons arrested reported that they were tortured during their detention. Some of these persons reported that former Interior Minister Walter Bower witnessed and encouraged the beatings of suspects in three unrelated cases. Bower was not charged with any crime related to these accusations; however, he was removed from his position in October. Press reports also tied him to the torture of eight peasants in Concepcion in March; police reportedly beat them in Bower's presence after they were arrested for illegally chopping down trees.

Police used force to disperse protesters on several occasions, sometimes seriously injuring civilians (see Section 2.b.). Police also beat at least one person, a labor union leader, during a strike in June (see Section 6.a.).

Violence erupted several times during the year when police removed squatters from lands they occupied. For example, on May 10 and 11, over 400 police officers tried to remove squatters from a ranch in Caazapa using tear gas. Some shots were fired, and peasants were armed with Molotov cocktails, machetes, and scythes.

In addition there were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers. Recruits commonly charged that the military does not give them enough to eat and forces them to hunt wild animals

or steal cattle to kill for food. In one case, a 15-year-old recruit, Cesar Francisco Pereira, reported that he was forced to fight another recruit by two sergeants who wagered a can of beer on the outcome. When Pereira lost, he was pistol-whipped by Julio Cesar Alarcon, the sergeant who lost the bet, and spent a month in a clinic recovering. Many recruits have claimed that they were tortured or beaten while fulfilling their mandatory service obligations.

Prison conditions are extremely poor. Mistreatment of prisoners is a serious problem. Overcrowding and unsanitary living conditions were the most serious problems affecting all prisoners. Tacumbu prison, the largest in Asuncion, was built to hold 800 inmates but houses over 1,500. Other regional prisons generally hold about three times more inmates than originally planned.

Security is another problem in the prison system. There are approximately 120 guards for over 1,500 prisoners at Tacumbu prison, and 3 inmates were killed during the year by other inmates. At the Asuncion women's prison, Buen Pastor, there have been several reported rapes of prisoners by their guards, although laws governing prisons forbid male guards in the women's prisons. Conditions in the women's prison are better than at Tacumbu, with less overcrowding and a generally safer environment. There is a separate prison for juveniles.

The Congressional Human Rights Commission has criticized the prisons for their poor nutritional standards. Prisons generally serve one meal a day, and prisoners seldom get vegetables, fruit, or a meat protein source, unless they have individual means to purchase them. Prisons have separate accommodations for well-to-do prisoners, which ensures that those with sufficient means receive far better treatment than other prisoners. Pretrial detainees are not held separately from convicted prisoners.

The Government permits independent monitoring of prison conditions by human rights organizations. Members of the International Committee of the Red Cross had access to the detained supporters of Oviedo who were arrested in March 1999 and to those arrested in May.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are persistent problems. The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement. The police can arrest persons without a warrant if they catch them in the act of committing a crime but must bring them before a judge within 24 hours. However, the authorities often violated these provisions, and the recent introduction of new penal and criminal procedure codes, which are not yet well understood by prosecutors and police, has exacerbated the problem.

Following the May 18–19 coup attempt, police detained journalists (see Section 2.a.).

Following the assassination of Vice President Argana and the killing of student protesters in March 1999, authorities arrested over 45 persons in connection with these cases. Many of those arrested were well-known political figures, including legislators allied with the former Government. There was little evidence presented to support the charges against most of them, and most of the accused were held without bail, leading some observers to question whether due process had been observed. At year's end, many of those detained still remained in jail, and at least 10 prominent suspects who had been remanded to house arrest had not yet been cleared of the charges against them and therefore remained in an uncertain legal status.

Pretrial detention remains a serious problem; 91 percent of persons in prison were held pending trial, many for months or years after their arrest. While the law encourages speedy trials, the Constitution permits detention without trial until the accused completes the minimum sentence for the alleged crime, which often occurs in practice. A bail system exists for most crimes, and judges have discretion over it. Judges frequently set relatively high bail, and many accused persons are unable to post bond. In March the Supreme Court, the Public Ministry, and a judicial working group took steps to reduce the large number of pretrial detainees but achieved only modest results. The Supreme Court and many criminal court judges also make quarterly visits to the prisons to identify and release improperly detained individuals.

The Constitution expressly prohibits exile, and the Government does not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, judges often are pressured by politicians and other persons whose interests are at stake. There were allegations that members of the judiciary who issued arrest warrants against the Oviedistas following the events of March 1999 were pressured to do so by politicians who opposed Oviedo. While there are credible reports of political pressure affecting judicial decisions, the judiciary is 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 disputes, 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 judicial system remains relatively inefficient; however, the 1999 enactment of new penal and criminal procedure codes is expected to improve the judicial system's efficiency over time. The judiciary continues to suffer from insufficient resources. There is also a large backlog of cases. The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary, but this right often is not respected in practice. Many destitute suspects receive little legal assistance, and few have access to an attorney sufficiently in advance of the trial to prepare a defense. In Asuncion for example, there are only 26 public defenders available to assist the indigent, and only 102 nationwide, although 25 new positions are planned. In practice, public defenders lack the resources to perform their jobs adequately.

The new Penal and Criminal Procedures Code entered fully into force in March and replaced the antiquated 1914 code. It provides the legal basis for the protection of fundamental human rights. The new code includes procedures for an oral and accusatorial system, as well as a faster and more transparent criminal trial process. If implemented effectively, these reforms could improve the credibility of the judicial system and reduce the number of persons in pretrial detention.

Enactment of the new Penal and Criminal Procedures Code has introduced gradually oral proceedings. A prosecutor is responsible for bringing charges against accused persons within 180 days. Defendants and the prosecutor can present written testimony of witnesses as well as other evidence. All interested parties have access to all documents reviewed by the judge, and defendants can rebut witnesses. Defendants enjoy a presumption of innocence. The judge alone determines guilt or innocence and decides punishment. During the pretrial phase, the judge receives and may request investigative reports. The accused often appears before the court only twice: to plead and to be sentenced. Defendants have the right to appeal. If the sentence is appealed, an appeals court reviews the verdict. The law provides for appeals to the Supreme Court if constitutional questions arise.

There were no reports of political prisoners. More than 45 supporters of former General Lino Oviedo were arrested after the killings of Vice President Argana and the student protesters in March 1999, and many remained in jail at year's end. They assert that they are being detained because of their political opposition to President Gonzalez Macchi (see Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—At times the Government infringed on citizens' privacy rights. While the Government and its security forces generally did not interfere in the private lives of citizens, human rights activists claimed that local officials and police officers abuse their authority by entering homes or businesses without warrants and harassing private citizens. The Constitution provides that the police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant. There were allegations that the Government occasionally spied on individuals and monitored communications for political and security reasons. There were allegations of the forced conscription of underage youth (see Section 5).

*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 during most of the year; however, there were several exceptions during the state of exception in May and following the vice presidential election in August.

The print and electronic media are independently owned; however, some newspapers, radio and television stations are closely tied to political parties, factions of those parties, or business interests. The media commonly criticized the Government and freely discussed opposition viewpoints.

Following the coup attempt of May 18-19, the Government arrested journalists, and police destroyed two radio stations. During the coup attempt, Radio Asuncion, whose owners, Miguel and Adriana Fernandez, had been linked to Oviedo, broadcast appeals to the public to support the uprising. Early in the afternoon of May 20, as many as a dozen uniformed officers of the Paraguayan National Police entered Radio Asuncion's studios, where they destroyed some broadcast equipment and stole other items, effectively dismantling the station, and detained both the owners. Radio Asuncion was unable to resume operations and was off the air at year's end. The

Government also detained Juan Carlos Bernabe of Radio Nanawa. On June 2, the authorities released Bernabe and the Fernandezes.

Radio 970 in Asuncion, which the Government similarly accused of supporting the coup attempt while it was in progress, reported being threatened with closure in the days following the uprising. Senator Francisco Jose de Vargas said during a public session of the Senate that he had requested that President Gonzalez Macchi send a helicopter to bomb the transmission tower of the station during the May 18–19 incidents because it was “abetting the insurrection.”

Also after the coup attempt, under the decree implementing the state of exception, President Gonzalez Macchi ordered the detention of Hugo Ruiz Olazar, editor of the Asuncion daily newspaper ABC Color and local correspondent for Agence France Presse and El Clarin of Buenos Aires, on suspicion of having participated in planning the coup attempt. Police maintained surveillance outside the newspaper, monitoring movements to and from the building in an evident attempt to capture Ruiz. He was never arrested and returned to his position at ABC after the state of exception was lifted.

In addition several journalists were threatened around the time of the vice presidential election on August 13. On the evening of August 15, a reportedly drunken mob of several dozen Colorado Party supporters surrounded the studios of the country’s leading station Radio Nanduti, threw stones and bottles, and threatened to storm the building. During the election campaign, Radio Nanduti’s owner and leading commentator, Humberto Rubin, had been mildly critical of the Colorado Party and a prominent Colorado political family. Although the station called the police and also broadcast appeals for assistance, the police took more than an hour to arrive and disperse the crowd. Some windows were broken, but no one was reported injured. Then-Interior Minister Walter Bower later telephoned station owner Rubin on the air to offer apologies for the slow response.

On December 19, Brazilian journalist Mauri Konig of the O Estado do Parana newspaper was beaten with chains and severely injured after photographing a police station in Alto Parana department, near the border with Brazil. Konig reported that at least one of the three men who beat him was wearing a police uniform, and a pickup truck reportedly used by his assailants was linked to several police officials. At year’s end, the authorities had made no arrests in the case.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of all citizens to peaceful assembly, and the Government generally respected this right in practice during most of the year; however, before and during the state of exception in May the Government restricted this right. Police used gunfire to disperse protesters on several occasions, sometimes severely wounding civilians.

In 1997 the Government amended a law regulating demonstrations in Asuncion to further restrict areas where demonstrations may take place but expanded slightly the hours in which they may be held. Union groups were the most vocal opponents of the modifications. The law requires that organizers notify the Asuncion police 24 hours before any rally in the downtown area. The police may ban a protest but must provide written notification of such a 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. In addition the law prohibits public meetings or demonstrations in front of the presidential palace and outside military or police barracks. This law does not apply to religious processions.

In March in San Pedro police removed a roadblock erected by peasants. During the altercation six persons were shot. However, police deny that they shot the peasants, claiming that they had only rubber bullets. Police also beat at least one person, a labor union leader, during a strike in June (see Section 6.a.).

On April 3, dozens of police in riot gear prevented members of the UNACE faction of the Colorado Party from holding a meeting to discuss what position their party should take in the upcoming internal party elections. Police allegedly violently forced members to leave the area of the UNACE office and stopped members in cars from completing their trip. Party leader Luis Villamayor complained that the action violated the Constitution.

The Government restricted freedom of assembly during the state of exception imposed in late May after the coup attempt. The Government prohibited public gatherings of UNACE followers during the state of exception and required other groups holding meetings or demonstrations first to receive authorization from the police. The police retained the right to forbid any meeting and to demand identification from anyone participating in a meeting or demonstration.

Other political demonstrations and rallies occurred during the year, generally without major incidents. Labor unions continued to demonstrate for better working

conditions, and peasant organizations closed roads on several occasions to bring attention to the needs of the rural population.

The Constitution provides for the right of all citizens to free association, and the Government respects this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government requires that all religious groups be registered with the Ministry of Education and Culture, but imposes no controls on these groups, and many informal churches exist.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All citizens may travel within the country with virtually no restrictions, and there are no restrictions on foreign travel or emigration. There were no travel restrictions during the state of exception. The alleged coup plotters are not allowed to leave the country and must sign in with the Justice Ministry once a month.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for the granting of asylum; however, there are no established provisions to grant asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and Interior and the nongovernmental Committee of Churches. The issue of the provision of first asylum has never arisen.

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

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

Citizens have the right and ability to change their government through democratic means. Multiple parties and candidates contest the country's leadership positions. Three parties are represented in the Congress. The Constitution and the Electoral Code mandate general elections every 5 years, voting by secret ballot, and universal suffrage. Debate in Congress is free and frank. The Congress often rejects the executive branch's proposals.

Three major parties and several smaller political parties are active. Competing factions within the parties are distinguished by the personal ambitions of their leaders, not by policy differences. The opposition's power increased as a result of the changes brought about by the 1992 Constitution and the subsequent election of a civilian president and an opposition-controlled congress. President Gonzalez Macchi's "National Unity Government" was weakened in February when the Liberal Party withdrew from the Government, claiming that the Colorado Party refused to share power with its coalition partners. The president of the Liberal Party was elected Vice President in August and took office in September. International observers from the Organization of American States characterized the election as free and fair. This was the first national election won by the opposition in almost 90 years. Interim gubernatorial elections that were scheduled for June were delayed because of a court challenge by the Colorado Party and were rescheduled for March 2001.

On May 18, members of two groups of the armed forces and some National Police officers loyal to former General Lino Oviedo attempted to overthrow President Gonzalez Macchi. Two cavalry units led by some former military officers and politicians took over the major cavalry bases in and around Asuncion and threatened to overthrow the Government. The coup attempt lasted less than 1 day, and the majority of the military remained loyal to the Government. However, following the coup attempt President Gonzalez Macchi declared and the Congress ratified a controversial and unpopular state of exception on May 19 and lifted it on May 31.

There are no legal impediments to women's participation in government and politics; however, in practice they are underrepresented. There are 9 women in Congress (7 of 45 senators and 2 of 80 national deputies), and there is 1 woman in the Cabinet. The new Electoral Code requires that, in their internal primaries, 20 percent of each party's candidates for elective office be women. Although women are represented in the judicial system as judges and prosecutors, there are no women on the Supreme Court.

Members of indigenous groups are entitled to vote, and the percentage of indigenous people who exercised this right has grown significantly in recent years; however, members of indigenous groups are underrepresented in government and politics. The inhabitants of some indigenous communities report being threatened and prohibited from fully exercising their political rights.

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

Several human rights groups operate, including the Committee of Churches (an interdenominational group that monitors human rights, investigates refugee claims, and provides legal assistance), Tekojoja (a group dedicated to the protection of children's rights), and SERPAJ (a group that defends conscientious objectors and provides legal assistance to those with grievances arising from military service). In 1999 32 NGO's, civil organizations, and trade unions officially formed the Paraguay Human Rights Coordinator (CODEHUPY). The Government did not restrict the activities of any human rights group or advocates; however, it has a mixed record in cooperating with or responding to recommendations from such groups.

The 1992 Constitution mandates that Congress name a human rights ombudsman through whom citizens could press claims against the state; however, the Congress has yet to do so. The Director General of Human Rights, located in the Ministry of Justice and Labor, chairs the National Commission on Human Rights. The Commission sponsors 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 may forward information concerning human rights abuses to the Attorney General for action. It also serves as a clearinghouse for information on human rights and has trained thousands of educators in human rights law.

The office of the Attorney General's Special Adviser on Human Rights has been extremely active in pursuing justice against human rights abusers from the Stroessner regime. Although the position has little real authority, the Adviser is a strong spokesman for the human rights community and the rights of the disenfranchised and uses his position to identify and publicize human rights abuses by the Government. During the year, the Special Adviser heard complaints from many citizens regarding alleged human rights violations and sponsored several conferences on different human rights themes.

On October 23, Minister of Foreign Affairs Juan Esteban Aguirre and Inter-American Institute of Human Rights representative Roberto Cuellar signed a cooperative agreement between the Government and the San Jose-based Institute. Under the terms of the agreement, the Inter-American Institute is to provide assistance in the fields of human rights education, political participation, and access to justice.

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

Although the Constitution and other laws prohibit discrimination, 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 is both widespread and vastly underreported. Spousal abuse is common. Although the new Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women are treated annually for injuries sustained in violent domestic altercations. Between January and September, the Secretariat of Women's Affairs registered 426 cases of violence against women. According to press reports published between January and August, nearly 60 percent of the cases of violence against women were rape cases. The authorities were able to detain the alleged attacker in less than 10 percent of those cases.

According to a 1995–96 national poll on reproductive health, 14 percent of women reported that they were abused physically at some point in their lives. Most observers believe that this number understates the reality. According to women's rights activists, official complaints rarely are filed or when filed soon are withdrawn due to spousal reconciliation or family pressure. The Secretariat of Women's Affairs chairs a national committee, made up of other government agencies and NGO's, which developed a national plan to prevent and punish violence against women. Under the plan, an office of care and orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGO's. However, in practice, these services are available only in Asuncion, and women living elsewhere in the country rarely benefit from them. The Secretariat also conducts training courses for the police, health care workers, prosecutors, and others.

The Women's November 25th Collective, an NGO, operates a reception center where female victims of violence can receive legal, psychological, and educational assistance. No shelters for battered and abused women are available outside the capital of Asuncion.

In July 1999, an IACHR report stated that in 1998 one case of rape was reported to the press every 3 days. During the first 4 months of that year, there was one

case of rape reported each day. There are no specialized police units to handle complaints involving rape.

Most women imprisoned reportedly were detained for assault, including murder, that they committed following domestic violence.

The law prohibits the sexual exploitation of women, but the authorities do not enforce the prohibitions effectively, and trafficking in women is a problem. Prostitution by adults is not illegal, and exploitation of women, especially teenage prostitutes, remains a serious problem. Law enforcement officials periodically stage raids on houses of prostitution, and raids on two brothels in June confirmed that teenage prostitutes were working in both locations. A ring of traffickers sending women and teenage girls to Buenos Aires under the guise of working as domestic servants was uncovered during the year (see Section 6.f.).

Recognizing that a majority of women in the workplace face sexual harassment, several unions have sponsored an ongoing campaign against it. Sex-related job discrimination continues to be common and widely tolerated. The Secretariat of Women's Affairs occasionally sponsors programs intended to give women free and equal access to employment, social security, housing, ownership of land, and business opportunities.

Women have much higher illiteracy rates than men, with an estimated 16 percent of rural women illiterate compared with about 10 percent of rural men. In addition, maternal mortality rates are high, and as many as 65 percent of such deaths are related to poor medical care. Several groups work to improve conditions for women, including Women for Democracy, which is active in civic and electoral education. Other groups include SUMANDO, an NGO that promotes educational reform and voter participation in elections; and SEFEM, which focuses on women and public policy and the participation of women in local development.

*Children.*—The Constitution protects certain children's rights and stipulates that parents and the state should care for, feed, educate, and support children. The population is very young, with 41 percent under the age of 15, and 60 percent under the age of 20. Boys and girls are entitled to equal treatment in education and health care. However, female access to education is lower, particularly in rural areas. The educational system does not provide adequately for the educational needs of the population. However, in 1998 the educational system was changed to make elementary school education compulsory through the eighth grade, with plans to extend it through grade nine, although the Government lacks the money to implement the changes. Families pay a fee to cover each school's administrative expenses and must purchase books, uniforms, and other supplies for their children's use.

Abuse and neglect of children is a problem. Children 14 and older are treated as adults for purposes of arrest and sentencing. According to UNICEF, 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe labor conditions (see Section 6.d.). According to a study by a local NGO, many of the children who work on the streets suffer from malnutrition, lack of access to education, and disease. Some employers of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them.

Sexual exploitation of children also is a problem. According to the Attorney General's office, there are approximately 200 complaints per month regarding the mistreatment and sexual abuse of minors. In the city of Encarnacion, the authorities arrested a man for selling pornographic images of young girls over the Internet.

Trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.f.).

The Government has ordered that all military officers responsible for recruiting ensure that all conscripts meet the legally minimum mandated requirement age of 18 for military service. However, there were many reported violations, including allegations of military recruiters forcing underage youths to join units and providing them with false birth certificates and other documentation to show them to be of age. The military took no significant disciplinary action against those responsible for underage recruits. Poor families often knowingly send underage children to the armed forces for economic reasons.

*People 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 disabled persons. However, the Congress never has enacted legislation to establish such programs or provide funding for them. Many persons with disabilities face significant discrimination in employment; others are unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the disabled, and the vast majority of the country's buildings, both public and private, are inaccessible.

*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, estimated at 75,000 to 100,000, is unassimilated and neglected. Low wage levels, long work hours, infrequent payment (or non-payment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination are common. Weak organization and lack of financial resources limit access by indigenous people to the political and economic system. Indigenous groups relied primarily upon parliamentary commissions to promote their particular interests. The Constitution also protects the property interests of indigenous people, but these rights still are not codified fully. The Constitution allows Public Ministry officials to represent indigenous people in matters involving the protection of life and property.

Lack of access to sufficient land also hinders the ability of indigenous groups to progress economically and maintain their cultural identity. This is made worse by insufficient police and judicial protection from persons encroaching on their lands.

The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal homelands. However, there have been significant allegations of wrongdoing within INDI, and in June a former INDI director was sentenced to 9 years' imprisonment for embezzlement. Furthermore, many indigenous people find it difficult to travel to the capital to solicit land titles or process the required documentation for land ownership. In August a group of indigenous people who had established a squatters' settlement on the edge of a highway were attacked by hooded men presumed to be ranch hands from a nearby property, in an attempt to dislodge them.

Significant problems facing the indigenous population also include lack of shelter and medical care, economic displacement resulting from other groups' development and modernization, and malnutrition. Scarce resources and limited government attention resulted in little progress in dealing with these problems. However, there were individual small successes that benefited indigenous people, including the successful pursuit in the courts in February and in July by members of the Enxet group of compensation for the forced labor and unlawful firing of some of its members (see Section 6.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference. The Constitution contains several provisions that protect fundamental worker rights, including an antidiscrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent, of workers are organized in approximately 1,600 unions.

In general unions are independent of the Government and political parties. One of the country's three labor centrals, the Confederation of Paraguayan Workers (CPT), traditionally was aligned closely with the ruling Colorado Party, but these ties appear to be loosening.

All unions must be registered with the Ministry of Justice and Labor. The registration process is cumbersome and can take several months. Employers who wish to oppose the formation of a union can delay union recognition further by filing a writ opposing it. However, virtually all unions that request recognition eventually receive it. 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 still is employed rarely. Senior Labor Ministry officials are available to mediate disputes.

The International Labor Organization (ILO) Committee of Experts has noted deficiencies in the application of certain conventions ratified by the Government. These include 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 regulations requiring a minimum of 300 workers to form a union as inconsistent with international norms regarding the freedom of association.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of these 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. A general strike called for 2 days in late

June only lasted 1 day, and was observed rigorously only by bus drivers, after several had their buses burned or their windshields smashed for initially defying the strike. Some violence also occurred during the month-long strike by Sitrande, the national electric utility workers' union, including reported acts of sabotage by union members. The workers went on strike to protest the privatization of the utility company.

There were unconfirmed allegations of several cases of intimidation and violence against union members during the year. In one case during a June transportation strike, union members and police clashed violently and one union leader was seriously injured.

Unions are free to form and join federations or confederations and during the year 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 is respected in practice. The number of negotiated collective contracts continued to grow, surpassing 100 contracts by the end of the year. However, they were still the exception rather than the norm in labor-management relations and typically reaffirmed minimum standards established by law. When wages are not set in free negotiations between unions and employers, they are made a condition of individual offers of employment.

The Constitution prohibits antiunion discrimination; however, the firing and harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes are jailed for their role in leading demonstrations. Fired union leaders can seek redress in the courts, but the labor tribunals have been slow to respond to complaints and typically favored business in disputes. The courts are not required to order the reinstatement of workers fired for union activities. As in previous years, in some cases where judges ordered the reinstatement of discharged workers, the employers disregarded the court order with impunity. There are a number of cases in which trade union leaders, fired as long as 6 years earlier, have not yet received a decision from the courts.

The failure of employers to meet salary payments also frequently precipitated labor disputes. Principal problems included bottlenecks in the judicial system and the inability or unwillingness of the Government to enforce labor laws. There were also complaints that management created parallel or "factory" unions to compete with independently formed unions. There were several cases of workers who chose not to protest because of fear of reprisal or anticipation of government inaction.

The union representing workers in Antelco, the state-run telephone provider, asserts that a new privatization law violates the conditions of a collective agreement between the Government and the bargaining unit by reducing the amount paid to workers who would be fired after the company is sold. The workers organized a strike in response to the privatization law.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including that performed by children; however, cases of abuse of national service obligations occurred (see Section 6.d.). There were reports of conscripts forced to work as servants or construction workers for military officers in their residences or privately owned businesses. There also were allegations of forced conscription of underage youths (see Section 5). Apart from the abuse of national service obligations, the authorities appear to enforce the law effectively; however, trafficking in women and girls also is a problem (see Section 6.f.).

It is a common practice for families who cannot afford to raise a child, most often a daughter, to send her to relatives or colleagues, where she may be expected to work in exchange for room, board, and access to education. Sometimes these girls, who can be as young as 5 years old, are abused by those charged with providing for them.

In February and July, courts ordered ranch owners to pay compensation to members of the Enxet indigenous group for forced labor and unlawful firing of some members (see Section 5).

*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. Minors between 15 and 18 years of age may be employed only with parental authorization and cannot be employed in dangerous or unhealthy conditions. Children between 12 and 15 years of age may be employed only in family enterprises, apprenticeships, or in agriculture. The Labor Code prohibits work by children under 12 years of age, and all children are required to attend elementary school through the eighth grade.

In general the Government does not have the resources to enforce minimum working age regulations. According to UNICEF, 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe conditions. Recent studies indicate that

42 percent of these children began working by the age of 8, and some 37 percent do not attend school. According to a study by a local NGO, some 6,000 children and adolescents work in the streets of Asuncion, of whom a third are under 10 years of age. Thousands of children in urban areas, many of them younger than 12 years of age, are engaged in informal employment such as selling newspapers and sundries, and cleaning car windows. Many of the children who work on the streets suffer from malnutrition, lack of access to education, and disease. Some employers of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them. Employers sometimes file false charges of robbery against those who seek to leave domestic jobs and turn them over to the police. In rural areas, it is not unusual for children as young as 10 years of age to work beside their parents in the field. Local human rights groups do not regard families harvesting crops together as an abuse of child labor.

The law prohibits forced or bonded labor by children, and generally it is enforced effectively; however, there were allegations of forced conscription of underage youths and trafficking in girls for forced prostitution (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage sufficient to maintain a minimally adequate standard of living for a worker and family. The minimum salary is adjusted whenever annual inflation exceeds 10 percent and was approximately \$195 (680,162 guaranías) per month at year's end. However, the Ministry is unable to enforce the minimum wage, and most analysts agree that 50 to 70 percent of workers earn less than the decreed minimum. 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 violate these provisions in practice. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely stage 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 Ministry of Justice and Labor and the Ministry of Health did not effectively enforce these provisions, due in part to a lack of inspectors and other resources.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their continued employment, but they may not do so until such conditions are recognized formally by the Ministries of Justice and Labor and Health. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

*f. Trafficking in Persons.*—There is no specific legislation to prevent trafficking in persons, and there were sporadic reports of trafficking of women and girls for sexual purposes. In August the press reported that a trafficking ring had been uncovered that sent women and young girls to Buenos Aires, Argentina, under the guise of working as domestic servants, and then forced them into prostitution. In one prominent case, two girls escaped from an Argentine brothel in April and returned to their homes. The authorities brought charges against a number of Paraguayans under laws criminalizing the forced prostitution of a minor, but at year's end, none had been convicted. An Argentine television station also conducted an investigation of prostitutes working in greater Buenos Aires and discovered a number of undocumented Paraguayan women and girls working there as virtual slaves, held as prisoners offering their services as prostitutes in exchange for their clothing, room, and board.

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## PERU

Peru is a multiparty republic with a dominant executive branch that for most of the year used its control of the legislature and the judiciary to the detriment of the democratic process. In May President Alberto Fujimori won a third 5-year term in elections that international and domestic observers judged to be significantly flawed; however, in November the Fujimori administration collapsed, leading to a significant opening in the area of political rights. In June the Secretary General of the Organization of American States (OAS) and a high level delegation visited the country to discuss the strengthening of democratic institutions. The visit resulted in

talks sponsored by the OAS, which began in August and included members of civil society, the Government, and the political opposition. In August President Fujimori's Peru 2000 alliance gained a majority in Congress after more than a dozen elected legislators changed their affiliation from opposition parties to Peru 2000. Charges of corruption against presidential advisor and de facto head of the intelligence service Vladimiro Montesinos led President Fujimori to announce on September 16 that he intended to hold new national elections in April 2001, in which he would not be a candidate. On November 22, President Fujimori sent his resignation to Congress from Japan, where he remained at year's end. Congress refused to accept his resignation and instead voted to remove him from office for "moral incapacity." The President of Congress Valentin Paniagua of the Popular Action Party succeeded to the presidency on November 22. He announced that he would uphold legislation allowing for new presidential and congressional elections in April 2001, and he accelerated the implementation of democratic reforms initiated in the OAS-sponsored talks. In November the Congress restored three judges to the Constitutional Tribunal, and it resumed its work. The Tribunal had ceased to function in 1997, when Congress removed three of its judges for opposing President Fujimori's intent to seek reelection. The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and was for most of the year easily controlled by the executive branch. By year's end, the Government had taken steps to implement important judicial reform measures.

The police and military share responsibility for internal security. In October Congress passed legislation, based on agreements made in the OAS talks, to dismantle the National Intelligence Service (SIN), and the Government took action to do so in that same month. The capture or death of several remaining terrorist leaders marked continuing progress in eliminating the still lethal threat posed by the terrorist group Sendero Luminoso (Shining Path). In February the Government eliminated the last remaining emergency zones that covered over 5 percent of the country's territory and restored constitutional protections, including freedom of movement and of assembly, throughout the country where they previously had been suspended. Civilian authorities generally maintain effective control of the security forces; however, there were allegations that some members of the security forces who were loyal to Montesinos, were undermining civilian control of the military. In November President Paniagua appointed a new Defense Minister who retired dozens of officers, many of whom allegedly were tied to Montesinos. Members of the security forces committed serious human rights abuses.

The Government has implemented major economic reforms, transforming a heavily regulated economy into a market-oriented one. The Government continued to privatize state enterprises but did not meet its target of selling those remaining by the end of the year. Inflation remained in the single digits, and economic growth reached 3.6 percent. Per capita gross domestic product is estimated at \$2,060. Major exports include copper and other minerals, fishmeal, and textiles. The unemployment rate is estimated at 9.5 percent; underemployment remains around 45 percent. More than one-half of the economically active population work in the informal sector. The poor constituted approximately 54 percent of the population; about 15 percent of the population live in extreme poverty.

The Government's human rights record was poor in several areas, and serious problems remain; however, following the change of administration in November, the Paniagua administration took steps to implement important democratic reforms, including some which improved the exercise of civil and political rights, and to address allegations of corruption surrounding the former intelligence services and other government officials. Members of the security forces committed extrajudicial killings and tortured, beat, and otherwise abused persons. Impunity remained a problem. Lack of accountability within the armed forces, particularly regarding counter-terrorist operations, continued to be a problem. Overall prison conditions remained poor and were extremely harsh in maximum security facilities. Arbitrary arrest and detention, prolonged pretrial detention, lack of due process, and lengthy trial delays continued to be problems. Despite extensive changes to reduce the executive dominance over the judiciary, at year's end problems persisted, including the general inefficiency of the system. At year's end, the Government was preparing to return to the contentious jurisdiction of the Inter-American Court of Human Rights, from which it had withdrawn in 1999. The Government inhibited freedom of speech and of the press, and journalists faced harassment and intimidation and practiced self-censorship; however, nongovernmental organizations (NGO's) noted significant improvements after President Fujimori announced the disbanding of the intelligence forces. There were some limits on freedom of assembly, although political rallies occurred frequently and most were not impeded. The authorities at times sought to hinder the operations of human rights monitors. Violence and discrimination

against women were widespread. Violence against children and discrimination against the disabled, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict collective bargaining rights and the freedom of association. Child labor remained a problem.

The Human Rights Ombudsman expanded its operations to 15 offices throughout the country. The ad hoc Pardons Commission completed its work after having reviewed over 3,000 cases of alleged wrongful conviction by military courts, and recommended and obtained pardons in 481 cases. During the year, the Justice Ministry's Human Rights Commission approved an additional 32 pardons recommended previously by the ad hoc Commission. After taking office, the Paniagua administration reconstituted the ad hoc Commission, which at year's end had recommended 33 new pardons and was preparing to review additional cases left over from the previous administration. The Terrorism Division of the superior court traveled to remote areas outside Lima and dismissed 300 longstanding arrest warrants on terrorism charges.

Sendero Luminoso terrorists were responsible for killings, torture, and numerous other abuses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings; however, security forces committed several extrajudicial killings.

On March 1, police from the Northern Special Services Division reportedly detained Alejandro Damian Trujillo Llontop in Lima. Trujillo's father filed a complaint through the National Police inspector's office and then with the prosecutor. Police denied making any arrests on March 1. On May 8, officials informed the family that an unidentified body of a 25-year-old man had been found on March 2 on the beach in Callao, and delivered to a morgue in Ica. Medical tests showed that the man had been beaten before dying on or about March 1; he subsequently was identified as Damian Trujillo. In April the victim's family filed a case against the National Police, including charges of crimes against humanity and forced abduction. In August the prosecutors charged the 10 officers who arrested Llontop with his death, and in September the judge overseeing the case ordered their arrest. The trial was underway at year's end.

On May 12, police in Tacna arrested Nelson Diaz Marcos for public intoxication. Diaz's wife, who was with him at the time of the arrest, arrived later at the police station to pick up her husband; the police told her that he was resting. Around 11 p.m., the police informed the wife that Diaz had died, and that his corpse was in the local hospital. The prosecutor in Tacna opened a murder investigation, and in June the provincial attorney filed charges of torture against policemen Victor Pachas Mamani and Carlos Laqui (see Section 1.c.). The policemen filed a motion to transfer the case to the military courts, but the Supreme Court assigned jurisdiction to a civilian court in October. The case was pending at year's end. According to reports from Amnesty International (AI), the director of a Tacna human rights organization representing the interests of the victim and his family received death threats (see Section 4). Human rights groups continue to represent the Diaz family.

On November 27, police stopped taxi driver Carlos Lopez Flores in Ayacucho and accused him of involvement in narcotics trafficking. Eyewitnesses reported that they saw three ununiformed policemen beat and shoot Lopez. Lopez died 3 days later. The Public Minister's office was investigating the case in December, after a complaint was filed against the three police officers for torture and murder. NGO's reported that the officers had not been arrested by year's end.

Although military service is no longer mandatory, mistreatment of military recruits continued to be a problem and resulted in four reported deaths (see Section 1.c.).

In June 18-year-old Jose Luis Poma Payano voluntarily joined the Air Force and began service in Lima. He returned home in November and told his parents that members of the Air Force had abused him physically. On November 10, Poma's parents requested that military officials investigate. The military responded that they would investigate, and that Poma would not be harmed further. However, Poma was shot and killed upon his return to the base that day. The Air Force indicated that his death was a suicide. Poma's parents requested a full investigation, including an exhumation of his body for further examination. At year's end, prosecutors were investigating the case.

In July military officials accused recruit Ronald Enrique Pena Garcia of stealing radio equipment and placed him in solitary confinement. Pena told his parents that military personnel tortured him during his detention, including submerging his

head in water and burning him with cigarettes. Pena died on August 11 from a bullet wound. His father filed a complaint with the Human Rights Ombudsman, and the investigation was pending at year's end.

On September 9, army recruit Lenin Castro Mendoza returned to the army base in Cerro de Pasco. To punish him for being intoxicated, an officer beat him and kicked him in the throat while he was laying in his bunk. Castro was taken to a nearby emergency room, where officials pronounced him dead on arrival. Police investigated the incident and concluded that the officer inflicted the injuries that led to Castro's death. In September police sent the case to the military court in Huancayo.

In December Mario Fernandez Sanchez died at a hospital in Lima due to injuries which were allegedly the result of torture by military officials. Prior to this incident of alleged torture, military officials reportedly tortured Fernandez both physically and emotionally, which drove him to desert his military base. He was brought before a military court in Concepcion to stand trial for desertion, where officers reportedly beat and tortured him again. His family filed a complaint with the Public Ministry and accused the military of torture. A prosecutor in Huancavelica had begun an investigation at year's end.

There were no developments in the 1999 case of Carlos Yauri, who died under suspicious circumstances 5 months into his military service. With the support of a local NGO, the Huaraz province prosecutor investigated and requested the military prosecutor expedite an investigation into the case.

No new information was available on several cases of recruits who died during their military service in recent years, including the cases of Juan Salazar Cayetano and Juan Espinoza Rodriguez.

At least two prisoners died during unrest in prisons during the year. Celso Ponce Torres died in a riot at Yanamayo prison in February. A fellow inmate reportedly struck him in the head during the violence. One prisoner died in violent riots at Lima's San Juan de Lurigancho prison in the same month (see Section 1.c.).

In February five peasants died after armed confrontations with landowners on land they occupied in Villa El Salvador.

In July six bank security guards died in a fire that erupted during confrontations between police and protesters in Lima (see Section 2.b.).

In June the press reported that peasants had discovered a mass grave no older than 10 years containing the remains of 8 to 12 bodies in the area of Colcabamba, Huacavelica. According to NGO's, the grave site is located along a trail used frequently by army patrols and terrorist columns in the 1980s and early 1990s. An investigation headed by the provincial prosecutor was underway at year's end. Representatives from the Human Rights Ombudsman's office observed that a series of irregularities in handling of evidence had compromised the forensic integrity of the investigation.

The case of Pablo Pascual Espinoza Lome, a jailed inmate killed in January 1999 by prison guards, remained pending. The courts had not reached a verdict because the Supreme Court had not ruled on a motion by prison guard Marcial Pirez, who originally had been acquitted of violating the 1998 antitorture law, which requested that the Court nullify a lower court's decision to sentence him to 4 years in prison.

Charges against four prison officials for aggravated abuse of authority and crimes against humanity in the November 1999 death of Esteban Minan Castro remained pending at year's end. Minan Castro died after Tambo de Mora penitentiary guards reportedly used tear gas to subdue him and put him into solitary confinement after he had allegedly violated prison rules.

There were no developments in the cases of Tito Mariluz Dolores, Ronny Machaca Flores, and Jose Antonio Palacios Garcia, all of whom died in police detention in 1999.

The Chinchá criminal court brought charges of torture against policemen Edwin Alfredo Saravia Torres, Marco Antonio Carrasco, and Julian de la Cruz Huyarote for the June 1999 death of Mario Clemente Guillen Mendez, who allegedly hanged himself after being detained by police. The case was pending at year's end.

In the case of Carlos Arrellano Mallqui, who died in police custody in 1998 in Ancash, the Supreme Court assigned jurisdiction to a military court. The military court did not render a decision by year's end.

There was no progress made in the investigation of the four soldiers suspected of robbing and killing Genaro Julca Bula and Alberto Aponte in 1998.

There was no progress in the case of Mariel Barreto, a military intelligence (SIE) agent whose dismembered and decapitated body was found in 1997. The Government had promised an exhaustive investigation into her death in 1998.

Sendero Luminoso terrorists killed 17 persons during the year in the course of over 100 acts of violence.

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

In the case of Walter Munarriz Escoba, who disappeared in March 1999 after being taken into police custody in Huancavelica, the provisional prosecutor brought formal charges against and ordered the detention of National Police captain Roberto Gastiaburu Nakada, Ensin Claudio Gutierrez Valasquez, and Adolfo Angeles Ramos. The prosecutor subsequently charged policemen Gunter Cuaresma Ramos and Percy Salvatierra Laura with torture and requested a 15-year sentence. The case still was pending at year's end.

No information was available regarding the status of Ernesto Rafael Castillo Paez, who disappeared in 1990. In 1997 the Inter-American Court of Human Rights ordered the Government to compensate his family and to punish the police officers responsible for his death.

In November the office of the Human Rights Ombudsman released an official report on approximately 4,000 persons who have disappeared since 1980 in the war against terrorism. The Ombudsman's report noted that the Sendero Luminoso or Tupac Amaru (MRTA) rebels abducted a majority of victims, who were mainly indigenous peasants. In 1995 Congress passed a law granting amnesty to members of the security forces responsible for abuses committed in the war against terrorism. To date few members of the security forces have been held accountable for their role in disappearances. A report released in June by the Inter-American Commission on Human Rights (IACHR) repeated the IACHR's previous calls for the amnesty law to be repealed. By year's end, the Government had not acted on this recommendation. In December President Paniagua directed the Justice Ministry to create a working group that would include members of NGO's, religious leaders, and government officials to make recommendations on the establishment of a truth commission that would hear evidence on disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment by the security forces continued to occur, and the Human Rights Ombudsman and NGO's contend that it continued to be widespread. Torture most often takes place during the period immediately following arrest. The incidence of torture is high during police detention in part because families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.).

Such abuse is particularly common in police cells operated by the National Counterterrorism Directorate (DINCOTE) and in detention facilities on military bases, where terrorism and treason suspects normally are held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons.

The Human Rights Ombudsman and NGO's reported 35 cases of aggravated torture by security forces. The majority of cases involved incidents of police brutality and beatings during detention.

On May 12, police in Tacna arrested Nelson Diaz Marcos for public intoxication and allegedly tortured him before killing him (see Section 1.a.). A prosecutor filed charges against the arresting officers and the case was pending at year's end.

In August three police officers in Chinga, Ica, detained Luis Enrique Rojas Vasques on suspicion of his involvement in a robbery. They handcuffed, beat, and threatened him with torture if he did not confess to the robbery. They also threatened him with death if he filed a complaint against them. The police also allegedly discovered drugs on the victim, but NGO lawyers claim that the drugs were planted. Rojas filed a complaint against the three officers for torture and abuse of authority. In October the local prosecutor dropped the charges of torture. The charges of abuse of authority still were pending at year's end.

In December AI released a report reviewing the facts and status of 21 cases of alleged torture in the past 2 years. Supported by a large number of NGO's, AI called on the Government to stop impunity in cases of torture; to try all such cases in civilian, rather than military, courts; and to apply the 1998 legislation against torture to all security force members implicated in cases of torture. AI called for more aggressive prosecution of torture cases, noting that since the 1998 legislation passed, only two perpetrators have been sentenced using the instruments provided in that law. Twenty persons have been charged under this law, including several cases of police brutality. However, after initial investigations in four cases, prosecutors either decided not to charge the alleged perpetrators with torture or dropped all pending charges. In several other cases, prosecutors filed charges on lesser offenses and sought milder sentences than required under the antitorture law. In a number of cases in the AI study, appeals or other legal action still were pending. A few of the cases were under review by the Supreme Court, which would rule on military or

civilian jurisdiction. In three cases the accused perpetrators had been arrested and were awaiting trial.

In April military officials allegedly arrested Amador Carmen Canchapan on charges of working with the armed opposition and took him to a military base in Huanuco department. There members of the army reportedly tortured him by submerging his head in water, beating him, and applying electrical shocks in order to force him to confess. The officials then threatened Canchapan with death if he brought charges against them. On May 2, authorities charged officials at Yanag military base with torture and abuse of authority. The prosecutor opened a preliminary investigation into the alleged abuses. The victim remained in custody at year's end, and was being investigated for committing or conspiring to commit terrorist acts.

On May 25, journalist Fabian Salazar alleged that SIN officers broke into his office the previous evening, bound him, confiscated video tapes of government officials that implicated them in corruption, and sawed his arm to the bone. The Government appointed an ad hoc prosecutor to investigate Salazar's claims. Salazar fled the country in June before he was able to provide his testimony, and the investigation was suspended. Salazar subsequently petitioned the IACHR to investigate. The Government offered to investigate the case again, but Salazar refused, claiming that the Government was biased. While there were a number of inconsistencies in Salazar's account, and even critics of the Government and journalists suspect that he may have exaggerated his claims, a full investigation never was conducted.

There continued to be a public perception that the armed forces operate with impunity in the war against terrorism; however, President Paniagua made changes in the military command that human rights activists noted as a sign of increased civilian control over the military. Prior to these changes, the Fujimori administration had asserted greater control over the military leadership in order to reduce the military's loyalty to former de facto SIN director Vladimiro Montesinos. The new attorney general began conducting investigations into corruption by former military officers.

Human Rights groups criticized the manner in which police controlled protests on July 28, noting that they purposely fired tear gas into crowds at close range, seriously injuring some protesters who were hit by the cartridges. There were also reports that police used undue force in arresting protesters and that they beat protesters while in detention (see Section 2.b.).

In the case of Huber Mendez Barzola, whom police detained in March 1999 on suspicion of terrorism and allegedly stripped naked, beat, and sodomized with a metal chain weapon in police custody, the Supreme Court upheld the sentence of policemen Oscar Italo Flores Montanez, Carlos Palacios Soto, and William Saenz. In November 1999, a court had found Palacios Soto and Flores Montanez guilty of torture, sentenced them each to 6 years in prison, and fined them about \$650 (2,000 soles). The court reduced Saenz's sentence to 3 years in jail and a fine of about \$150 (500 soles).

In the 1998 case of Pedro Tinta Vera, whom police arrested in Lima on charges of aggravated terrorism, allegedly tortured, and to whom they neglected to provide medical treatment, prosecutors filed charges in October 1998 against police officers Domingo Arnaldo Gil, Guillermo Osorio, and Ricardo Loli for the crime of torture, and a judge ordered their arrest. In June a superior court judge suspended the arrest warrant against the officers but issued an order to appear at the Court. By year's end, the trial had not begun.

In the case of Antero Espinoza Alzamora, whom police detained and allegedly beat in April 1999, the prosecutor in Piura had opened an investigation but did not file charges. In the 1999 case of Catalino Daga Ruiz and Bernardo Daga Ruiz, whom police arrested on suspicion of robbery, then allegedly beat, took to a cemetery, and buried up to their necks, the victims filed torture and illegal entry charges, and the prosecutor began an investigation.

There were no updated reports on investigations and judicial proceedings on charges of torture or abuse of authority against members of the National Police in several cases brought to the public's attention in 1999: Jesus Natividad Roman Portocarrero, arrested in Piura in March; Mario Jimenez Roque, arrested in Pasco in April; Julio Armando Uribe, arrested in Moquergua in July; Moises Paco Mayhua, arrested in Puno in August; and Victor Valle Cabello, detained in Pasco in September.

In 1999 a special prosecutor charged several naval officers under the antitorture law for allegedly torturing Raul Teobaldo in 1998. Personnel from the Aguaytia Naval Base detained and allegedly tortured Andahua by beating him, applying electric shocks, and sodomizing him, in order to force him to sign a confession indicating that he was a terrorist. However, the court issued an arrest warrant in 1999 against

Julio Spencer Guido Davalos, on a much lesser charge of committing bodily harm. In January the Supreme Court ruled that the civilian courts had jurisdiction over the case. In September the prosecutor concluded that Andahua was the victim of torture and filed charges of torture against the implicated military officers. The trial had not begun as of year's end.

No progress was made in the case of the 1998 beating and torture of Pablo Waldir by policeman Elmer Perez Arna.

In October 1999, an Ayacucho court acquitted a policeman in the 1998 case of torture that led to the death of Lucas Huaman Cruz. In November 1999, the Supreme Court prosecutor filed a motion to nullify the Ayacucho court's decision. The Supreme Court had decided to hear arguments on the case, but still had not taken action on the case by year's end.

In the 1997 case of Leonor La Rosa, a military intelligence (SIE) officer who was beaten and tortured by four of her colleagues (and who now resides in Sweden), the Supreme Council of Military Justice awarded La Rosa approximately \$1,500 (5,250 soles) as an indemnity in 1999. La Rosa's attorney considered the amount seriously inadequate, since she is a paraplegic as a result of the torture. The IACHR continued to facilitate a settlement between La Rosa and the Government.

In addition to beatings, common methods of torture and other inhuman or degrading treatment included electric shock, water torture, asphyxiation, and the hanging of victims by a rope attached to hands tied behind the back, and, in the case of female detainees, rape. Common forms of psychological torture included sleep deprivation and death threats against both detainees and their families. Interrogators frequently blindfolded their victims during torture to prevent them from identifying their abusers. In some cases, the Government took action to investigate and prosecute security force personnel charged with torture, but impunity persisted. Crowded dockets and disputes over civilian or military jurisdiction contributed to long delays in legal proceedings in cases where officers were charged under the 1998 antitorture law. At year's end, the cases of several officers whom the authorities had charged under the legislation were still pending a verdict.

As in previous years, NGO's and the Human Rights Ombudsman received complaints that the military beat or otherwise mistreated some members of the military service. Mistreatment of military recruits continued to be a problem and resulted in several deaths (see Section I.a.). The authorities failed to resolve a number of cases of torture and mistreatment from previous years, including the cases of Jaime Palacios Sanche and Elvis Lopez Tuya.

On February 12, the army dropped tear gas from helicopters and used the force of gusts from helicopters to disperse squatters who had settled in Villa El Salvador.

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death (see Section I.a.).

Prison conditions are poor and extremely harsh in maximum-security facilities, especially those operating at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care are serious problems within the prison system. Prison guards and fellow inmates routinely victimized prisoners. Corruption is a serious problem among poorly paid prison guards, many of whom participate in sexual abuse, blackmail, extortion, narcotics and weapons sales, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities do not supply adequate bedding and budget only about \$0.75 (2.5 soles) per prisoner per day for food, the families of prisoners typically must provide for these basic needs. In high-security prisons, female inmates are allowed to see their children once a week. In prisons that house only common criminals, such as Lima's Chorrillos women's prison, children 3 years of age and younger live with their jailed mothers.

Overcrowding and inadequate infrastructure hamper efforts to improve the living conditions of prison inmates. There are 28 prisons in the country that held approximately 27,305 prisoners during the year. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built to accommodate 1,500 persons. Inmates have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities are unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons, and tuberculosis and HIV/AIDS are reportedly at near-epidemic levels. Detainees held temporarily while awaiting arraignment in Lima are not allowed outside for fresh air and have restricted access to bathrooms. At year's end, the Government was preparing to implement new regulations regarding prisoners' access to visitors and prisoners time outside of cell.

In 1999 the Human Rights Ombudsman published a report on prison conditions and administration, which highlighted many serious shortcomings, including a shortage of trained medical personnel, unreliable legal representation for prisoners,

and insufficient numbers of social workers. The Ombudsman and the IACHR have reported that the Government fails to supply enough lawyers, medical staff, or psychologists to service the prison system, resulting in serious problems for treatment and adequate legal counsel. The Ombudsman noted that the operating philosophy in the prison system is one of punishment rather than rehabilitation. Roughly half of all prisoners performed some form of voluntary work, and only 28 percent participate in some kind of educational activity.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violates international norms and standards, particularly with respect to its isolation and high altitude. Located at an altitude of about 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air have unavoidably detrimental effects on prisoner health. The prison can be reached only after an all-night bus ride from the nearest population center, limiting inmates' contact with family. Hospital care is 8 hours away by overland transportation. Face-to-face consultations by inmates with their attorneys are rare. To relieve some of the isolation, the International Committee of the Red Cross (ICRC), and to a lesser extent the Government, fund a monthly visit by families to inmates. In 1998 the International Federation of Human Rights, as well as visiting members of the IACHR and the Ombudsman, called on the Government to shut the prison down.

There were a number of protests and hunger strikes in various prisons, including the high security prisons at the Callao Naval Station and Yanamayo. In February prison inmates rioted and took over Yanamayo prison for roughly a week before authorities reestablished control. Conflicts between prisoners resulted in one death and several injuries. A wave of prison protests followed all over the country, including in Lima's Lurigancho prison, where security forces intervened to reestablish control. One prisoner died in the violence at Lurigancho, and over 40 prisoners were injured either by fellow inmates or by the security forces who acted to restore order. The Human Rights Ombudsman asked prison authorities to allow his staff to visit the prison following the riots, but was denied such access until after the riots ended. Some prison protests in Lima continued in September, October, and November, resulting in minor injuries but no reported deaths. Imprisoned Sendero Luminoso leaders began a hunger strike in December.

The Government permits prison visits by independent human rights monitors, including the ICRC. For most of the year, prison authorities did not grant representatives of the Human Rights Ombudsman access to the military prisons; however, that practice began to change under the Paniagua administration. Members of the Ombudsman's office were allowed to visit the naval facility in Callao in December (see Section 4). During the year, the ICRC performed 115 visits to prisons, detention facilities, and juvenile detention facilities, visiting a total of 3,061 prisoners. The ICRC also visited seven prisoners in custody at the maximum security naval base facility in Callao every 2 months.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain problems. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas of the country this must be accomplished as soon as practicable. However, the authorities often disregard this requirement. In December Congress passed legislation allowing the authorities to detain suspects in investigations of corruption for up to 15 days without arraignment. The law also permits authorities to prohibit suspects under investigation of corruption from traveling.

In February the President suspended all remaining emergency zones and restored the constitutional protections in those areas. Previously, the Government suspended constitutional protections against arbitrary arrest and detention in emergency zones, and security forces did not need an arrest warrant in order to detain a suspect.

Police may detain terrorism and treason suspects for a maximum of 15 days, and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. When suspects are held incommunicado, the authorities prohibit families from visiting suspects, and attorneys have access to them only during the preparation and giving of sworn statements to the prosecutor.

By year's end, the special terrorism division of the superior court dismissed 300 arrest warrants of the estimated 5,228 persons still subject to detention orders.

These cases involved many who were forced against their will to participate in terrorist activities during the internal conflict, or who were accused falsely of links with terrorist groups. In 1998 the Human Rights Ombudsman called on the Government to rescind all outstanding detention orders that were more than 5 years old, and to cancel all orders that did not comply with legal specifications.

By year's end, the Government had approved 65 pardons recommended by the ad hoc Pardons Commission and the Justice Ministry's Council on Human Rights, which evaluated and recommended pardons for persons convicted of terrorism, bringing the grand total to 546 pardons (see Section 1.e.).

Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions; however, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus are restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges are able to hear such petitioners, instead of the 40 to 50 judges in previous years, thereby significantly delaying justice. In December the Paniagua administration restored the number of judges able to hear habeas corpus petitions to its original level as part of the restructuring of the court system. Judges rarely allow the unconditional release of suspected terrorists, even if there is insufficient evidence to bring a case against them, despite 1993 amendments to antiterrorism laws that gave lower court and superior court judges the power to do so. As a result, persons charged with terrorism sometimes must wait until their cases have been reviewed and dismissed by the Supreme Court before they are freed. This process can last more than a year.

In December figures from the National Penitentiary Institute (INPE) showed that approximately 46 percent of a total prison population of 27,305 had been sentenced. Over 50 percent of the prison population remained in Lima; of these prisoners, 74 percent remained unsentenced. The June IACHR report and the U.N. Commission on Human Rights report in July both expressed concern about the large number of unsentenced prisoners. The problem of prisoners who have served their terms and still have not been released continued. In December President Paniagua committed the Ministry of Justice to assess procedures for reviewing cases with pending sentences. By year's end, the Justice Ministry had recommended better ways to track the status of prisoners in the penal system.

In 1998 the Catholic Bishops' Social Action Commission called for implementation of a system that would allow first-time detainees to post bail. According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, since trial procedures in military courts are largely devoid of due process protections, the speed with which trials are concluded offers little benefit to the defendants involved. Once trials have concluded, prisoners have to wait long periods before receiving their sentences.

According to two human rights organizations, police routinely detain persons of African descent on suspicion of having committed crimes, for no other reason than the color of their skin, and rarely act on complaints of crimes against blacks (see Section 5).

The Constitution does not permit forced exile, and the Government respects this prohibition.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and easily controlled by the executive branch. As a result, public confidence in the judiciary remains low. In November the Government abolished an executive commission of the judicial branch and an executive commission of the Public Ministry. The duty of these commissions was to reform the judiciary; however, its members regularly ruled in favor of the executive branch under the Fujimori administration, compromising the independence of the judicial system and furthering the executive's control of it.

Previous attempts to reform the judiciary did little to restore its independence from the executive, and the lack of a fully functioning Constitutional Tribunal overshadowed procedural improvements. In November Congress restored to the Constitutional Tribunal three judges whom Congress removed in 1997 after they had opposed the application of a law allowing President Fujimori to seek a third term. This had paralyzed the court's ability to rule on any constitutional issues for lack of a quorum. Other serious problems affecting the judiciary included the curtailment of the authority of the National Council of Magistrates (CNM) to investigate, discipline, and remove judges, the continuing large number of provisional judges in the

court system, and the transfer of jurisdiction of sensitive cases to courts more inclined to rule in the Government's favor.

Throughout most of the year, roughly 80 percent of the country's approximately 1,700 civilian judges were provisional appointments, meaning that they had received temporary appointments that did not correspond to their rank, including 21 of the 33 judges on the Supreme Court. In some cases, the judges were assigned independently and without having gone through the proper channels for training. Critics charged that since these judges lacked tenure, they were more susceptible to outside pressures.

Working with opposition and civil society representatives in the OAS democratization dialog (see Section 3), the Government began taking steps designed to restore the judiciary's independence from the executive. In October Congress passed legislation that eliminated eligibility of provisional judges to hold administrative positions, such as posts on the National Elections Board (JNE) or the CNM. In November the Paniagua Administration began a comprehensive review of the court system, including the assignment of judges and prosecutors. By year's end, the Government had reassigned hundreds of provisional judges and prosecutors to positions more appropriate to their actual rank. Several provisional judges and prosecutors resigned or were removed from their positions permanently and were not reassigned.

The Government's reliance on untenured, provisional and temporary judges was demonstrated when the executive commission of the judicial branch created two specialized chambers of the Supreme Court in 1998. These chambers, staffed by provisional and temporary judges, assumed control over tax, customs, and narcotics crimes previously under the jurisdiction of the tenured judges of the Lima superior court. This practice enabled the executive branch to supervise closely such cases as that of Baruch Ivcher, his family, and associates (see Sections 2.a. and 2.d.). In December the Supreme Court eliminated these two specialized courts. In the same month, evidence emerged that showed how former intelligence advisor Montesinos improperly influenced cases through provisional judges on the Supreme Court and through the Attorney General, who was also a provisional appointee. The majority of implicated officials have either resigned or been suspended, and several investigations into corrupt judicial practices were underway at year's end.

There is a three-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. In November the Constitutional Tribunal resumed its mandate to rule on the constitutionality of congressional legislation and government actions; the National Judiciary Council tests, nominates, confirms, evaluates, and disciplines judges and prosecutors; and the Judicial Academy trains judges and prosecutors.

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. All criminal case convictions in civilian courts must proceed to a third phase, where the Supreme Court hears appeals and confirms or rejects the previous sentences. All defendants have the right to be present at their trial. Defendants also have the right to counsel; however, the public defender system often fails to provide indigent defendants with qualified attorneys.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their sentences to the Superior Military Council, which has 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 are active-duty line officers with little or no professional legal training.

In December 1999, Congress abolished the classification of acts of extreme violence such as criminal gang activity, homicide, kidnaping, and the use of explosives as aggravated terrorism. Under new law, such cases are designated as "special terrorism" and jurisdiction over such crimes falls under the civilian courts. In October Congress disbanded the SIN, including the National Intelligence Directorate for Social Peace and Safety, which had investigated such crimes.

While simple terrorism cases for civilians are tried in civilian courts, cases of treason, which is defined as being a terrorist leader or participating in a terrorist group's attack or activities, for civilians are tried only before military courts. Human rights groups and legal experts charge that the vaguely worded definitions of certain

crimes in the antiterrorism statutes often lead military judges to issue sentences disproportionate to the crimes committed. Moreover, defendants in treason cases who are found not guilty by a military court may be remanded to a civilian court for a second trial on terrorism charges based on the same facts.

Human rights groups and legal experts strongly criticize the power of the military courts to try civilians in cases of treason or aggravated terrorism and the powerlessness of the civilian judicial system to review military court decisions. In 1997 Gustavo Adolfo Cesti Hurtado, an insurance broker who had retired from military service 13 years earlier, was arrested, prosecuted, convicted, and sentenced to prison by the military justice system in a complicated case involving, in part, alleged insurance fraud in a military purchase of helicopters. When a civilian court approved a habeas corpus petition and ordered the military court to release Cesti, the military court not only refused to do so, but also charged the civilian judges with usurpation of power and sought to have them reassigned. The case was brought before the Inter-American Court of Human Rights, which rejected a government motion to dismiss it. The Court ruled in September 1999 that the Government had violated the American Convention on Human Rights, and ordered that the habeas corpus petition be honored and that the reparations stage be initiated in order to compensate the victim. In November 1999, the authorities released Cesti from military prison; however, Cesti's legal status remained unresolved at year's end, pending a request from the Government to the Inter-American Court for further clarification of its ruling.

In August the case of Lori Berenson, who was tried for terrorism by a military tribunal without sufficient guarantees of due process, was transferred to the civilian courts pursuant to a Military Supreme Court review based on new evidence. At year's end, a civilian prosecutor was investigating to determine if charges should be brought.

Proceedings in these military courts—and those for terrorism in civilian courts—do not meet internationally accepted standards of openness, fairness, and due process. Military courts hold treason trials in secret. Such secrecy is not required legally, but in some cases the courts deem that circumstances require it. Defense attorneys in treason trials are not permitted adequate access to the files containing the State's evidence against their clients, nor are they allowed to question police or military witnesses either before or during the trial. Some military judges have sentenced defendants without even having notified their lawyers that the trials had begun. Since the creation of the special military courts in 1992, 747 civilians have been sentenced for treason or aggravated terrorism, and by year's end 180 civilians still had cases pending. In December the Minister of Justice created a commission charged with reviewing the laws governing the military justice system.

The Council of Magistrates (CNM), established by the 1993 Constitution, regained many of its original functions in December. A March 1998 law had transferred the CNM's power to investigate and dismiss Supreme Court judges and prosecutors to the executive commissions of the judicial branch and the Public Ministry, respectively, both of which were controlled by strong allies of President Fujimori. Critics pointed to this action as a further example of executive branch control of the judiciary. A September 1998 law partially restored the CNM's powers, while leaving the Public Ministry in charge of determining whom the CNM could investigate.

Responding to OAS dialog recommendations, in November the Government and opposition agreed to establish a transitory judicial council, with all the legal powers of the CNM, in order to restore full power to the CNM, including sanctioning and ratification of judges and magistrates. The council is expected to work for 90 days reviewing laws and regulations put in place by the executive commission since 1998. Three judges and three jurists, appointed by consensus within the OAS dialog, compose the council. Since it began operating on December 6, the council has dismissed judges, reinstated others judged to have been unfairly discharged, and returned to lower courts judges who were serving provisionally in higher courts.

The first class of judges that the CNM selected was scheduled to graduate in the fall; however, their nominations to judgeships were delayed by the restructuring that resulted from the OAS talks. The Academy continued its in-service training program for judges and magistrates, which consists of a few hours of classes each week during the first year, and practical training during the second. The Academy's training program, originally scheduled to last 6 months but later extended to 2 years, was strongly criticized as further prolonging reliance on provisional and temporary officials, who are more susceptible to manipulation by the executive.

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 provided by the American Convention on Human Rights

and ruled that a civilian court should have had jurisdiction. It also ruled that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. The Court directed the Government to provide the four with new, civilian trials.

Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism.

However, the Government refused to accept the Inter-American Court's jurisdiction in cases involving terrorism, including the case of the Chileans, because laws passed after signing the Convention establishing the Court required military trials in cases of treason and aggravated terrorism. The Government's decision to withdraw from the Court's jurisdiction in these cases effectively restricted citizens' constitutional rights to seek redress in the hemisphere's preeminent international tribunal. The Court continued to process pending cases and stated that the Government could not withdraw immediately from the Court's contentious jurisdiction. In August the Government agreed to discuss the full integration of the country into the Inter-American human rights system, and the issue was discussed as a priority in the OAS-sponsored dialog. At year's end, the Government was preparing to return to the contentious jurisdiction of the Court.

In the civilian jurisdiction, a specialized terrorism division of the superior court tries cases. The division is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled around the country to hear several hundred cases of persons with old warrants outstanding for terrorism charges. Of these, judges found 300 persons innocent and ordered the suspension of their warrants. Human rights NGO's and the Human Rights Ombudsman noted that this addresses the concerns of those who considered themselves innocent, but who feared coming forward for an abbreviated and unfair trial. However, approximately 5,000 warrants remain in effect (see Section 1.d.).

The ad hoc Pardons Commission, which consisted of the Human Rights Ombudsman as chairman, the Minister of Justice, and President Fujimori's representative Father Hubert Lanssiers, ended its work on December 31, 1999. The Commission's mandate was to consider applications of those who believed themselves to be accused unjustly of terrorism. By the end of 1999, 3,056 of a total of 3,878 persons accused of these crimes had applied for clemency, and 481 had received the Commission's recommendation for pardon. A December 1999 law assigned the Commission's functions to the Justice Ministry's National Human Rights Council. Between January and November, the Council recommended (and President Fujimori granted) 32 pardons. After the Paniagua Government took office in November, the Government established a new ad hoc Pardons Commission that had by year's end recommended 33 additional pardons that were granted, bringing the total to 546. At year's end, the new Commission continued to review petitions not previously recommended. NGO's advocated that the new commission expand its review to include all convictions and sentences rendered by military courts, but by year's end, the Government had not made a decision on the matter.

There was no congressional action on the Human Rights Ombudsman's 1999 recommendation for legislation for monetary compensation of innocent persons released through the Pardon Commission's program. The matter was added to the agenda of the OAS talks in October, but Congress had not taken any action by year's end.

The Extrajudicial Conciliation Law, which Congress passed in 1998, was to have made conciliation a mandatory first step in most civil cases by January; however, due to administrative and other delays, partial implementation of the law was not scheduled to begin until January 2001 in Trujillo, and is scheduled to begin in Lima and Calloa in March 2001, expanding progressively to other cities during the year.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with terrorism are 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, NGO's indicate that this requirement is not always observed in practice. In February the Government eliminated emergency zones that covered approximately 5 percent of the country. Prior to that constitutional protections, including freedom of movement and other due process guarantees, had been suspended in those areas.

In the past, the Human Rights Ombudsman and human rights NGO's received complaints regarding the forced conscription of young men, including minors, by security forces as part of the constitutionally mandated system of compulsory 2-year

military service. A law went into effect in January that makes military service voluntary and prohibits the practice of 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. The Human Rights Ombudsman monitors implementation of the law to ensure that the military abides by it, since past efforts to prohibit forced conscription did not prevent it.

The Constitution provides citizens with the right to private communication, but the media, politicians, some government officials, and private individuals continued to report that the Government violated this right. The case of former SIE agent Luisa Margarita Zanatta Muedas, who fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations, remained pending at year's end. 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. By year's end the Government had not taken action on those recommendations.

In May the IACHR recommended that the Inter-American Court hear the wiretapping case filed by opposition Congresswoman Anel Townsend and 13 journalists. They charged that the Government had violated their constitutional right to privacy and sought civil damages. The Supreme Court had dismissed the charges in 1998. The congressional Committee on Defense, Intelligence, and Internal Order conducted a summary investigation of the charges in 1999. The investigation not only exonerated the intelligence services and security forces, but concluded that the aggrieved journalists had wiretapped themselves and recommended that they be charged with having fabricated and disseminated false information that tainted the honor of the military. Having exhausted their domestic resources, the journalists took their case to the IACHR in November 1999.

Opposition politicians continued to report credible incidents of wiretapping and surveillance. Although high-level government officials denied government involvement in any of these incidents, there was little effort to investigate the allegations. In 1999 presidential candidate Luis Castaneda Lossio accused David Pinedo Torres of being a SIN agent and charged that Pinedo was surveilling him. The case against Pinedo was dropped during the year, as was the case against Castaneda for detaining Pinedo.

Reports of forced conscription by the MRTA (most of whose surviving members are jailed) and the greatly weakened Sendero Luminoso terrorist groups diminished significantly. However, Sendero Luminoso continued to coerce indigenous people to join its ranks (see Section 5).

During the year, the Ombudsman's office received isolated complaints of abuses committed by family planning personnel. Allegations first arose in 1997 that a number of health workers in public hospitals and family planning clinics administered by the Ministry of Health had induced female patients to opt for sterilization by promising them food or another type of good or service, or by not providing them with complete information about available alternatives. In a 1999 report, the Ombudsman recommended that family planning practitioners provide all clients with complete information about alternatives available to them, that they pressure no client into using any particular contraceptive method, and that if a patient chose sterilization, that the patient be afforded a 72-hour waiting period during which to consider that option. The Ombudsman also recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. The Ministry of Health accepted the Ombudsman's report and implemented many of his recommendations.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press; however, in practice the Government inhibited the full exercise of these freedoms for most of the year. Manipulation of opposition journalists through the judicial system and the use of government advertising revenues to influence reporting in print and broadcast media were serious problems. Human rights groups contend that government harassment of and alleged attacks against journalists also were problems. As a result, much of the media, especially the financially vulnerable broadcast television networks, practiced self-censorship. Many in the press regard the Fujimori administration's harassment of the media as a key reason for his victories in presidential elections. Following the establishment of the OAS dialog in August and the deactivation of the SIN in October, the climate of press freedom improved. Television stations began to show more balanced political coverage and allowed opposition views to be presented. Tabloids that were suspected of being fi-

nanced by the SIN discontinued publication, and the remaining tabloids changed their coverage to nonpolitical reporting.

The press represents a wide spectrum of opinion, ranging from left-leaning opposition views to those favoring the Government. In the greater Lima area alone, there are 20 daily newspapers, 7 television stations, 65 radio stations, and 3 news channels on 2 commercial cable systems. There are numerous provincial newspapers and radio stations. The Government owns one daily newspaper, one television network, and two radio stations, none of which has a particularly large audience.

Several international press groups, including the Committee to Protect Journalists (CPJ), the Inter-American Press Association (IAPA), and Freedom House, as well as the OAS, reported various cases and types of press harassment and accused the Government of being responsible for some of it. The CPJ named former President Fujimori as one of the world's "Top Ten Enemies of the Press" for the second year in a row. In October the media advocacy group Prensa Libre issued a report in which it cited numerous instances of surveillance and harassment of journalists, which it attributed to the Government and intelligence services. The group also noted limitations on access to airtime for opposition candidates, as well as a defamation campaign against the political opposition and independent journalists in tabloid newspapers allegedly funded by the Government.

Media outlets can, and do, criticize the Government; however, under the Fujimori administration, they risked reprisal through the loss of government advertising (often a major source of revenue), libel suits, or other judicial action on apparently unrelated issues. The Fujimori administration filed lawsuits against owners or managers of many antigovernment media outlets whose content appeared to depend as much on political as much as legal criteria. Incidents such as the high-profile 1997 loss by television owner Baruch Ivcher of his station and his citizenship (see Section 2.d.), TV Channel 13's co-owner Genaro Delgado-Parker's loss of his station in 1999, and the February seizure of Radio 1160's transmitters and sound equipment restricted press freedom and encouraged journalists and media owners to practice self-censorship.

The limitations on press freedom were particularly evident during the election campaign season that dominated the first half of the year, when broadcast television tilted heavily in favor of the Government and against the opposition in its news coverage and public affairs programming. On March 8, a month before the first round of voting, the OAS Special Rapporteur for Freedom of Expression, Santiago Canton, noted his concern and that of the IACHR over freedom of expression in the electoral process. On June 4, shortly after the final round of elections, the IACHR issued a statement describing the violations of freedom of expression. It specifically noted government pressure on the media to suppress coverage of and sale of airtime to opposition candidates, and government financing of pro-government tabloid papers that harassed opposition candidates and supporters.

The Government agreed to address freedom of the press issues as part of the OAS democracy talks, and in August the OAS dialog, established a working group to resolve former television owner Baruch Ivcher's Peruvian nationality, revoked by executive order in 1997, and to examine ways to resolve disputed ownership claims over Channel 2 and Channel 13. In October the Government agreed to restore Ivcher's citizenship and did so in December (see Section 2.d.). In early December, Ivcher returned to the country and regained control of Channel 2. Several days later, Delgado-Parker regained control of Channel 13. By year's end both stations were providing independent political reporting and analysis.

Journalists and media outlets also have been intimidated physically. According to the National Journalists Association (ANP), there were many cases of media harassment by the National Police and the military, and by local political and commercial organizations. The ANP reported 104 cases of journalist harassment through August, of which 61 percent were in the provinces and two-thirds involved violence.

The CPJ reported that in April an unidentified person fired shots at journalist Hernan Carrion, who directs a daily news program in Chimbote. Carrion requested protection from the provincial authorities, but continued to receive threatening phone calls following his continued criticism of the Government on his program. At the same time, the Government told the owner of the radio station that broadcasts Carrion's program to resubmit tax papers or be charged a substantial fee. The station suspended Carrion's program, asserting that it was for his own protection.

The Fujimori administration and its supporters used libel laws to suppress criticism of political leaders or offices. In August the pro-government newspaper *Expreso* and the director of the National Reserve Bank (who is the executive chairman of *Expreso*) filed a libel suit against Carlos Hildebrandt, the director of opposition newspaper *Liberacion* and an outspoken critic of the Government, and a journalist who wrote an article criticizing the management of *Expreso*. The plaintiffs sought

monetary damages amounting to \$1 million, a sum that appeared designed to bankrupt *Liberacion*. The case was pending at year's end. In another August incident, the Government's intellectual property rights administration filed a libel complaint against the majority owner of a web site specializing in publishing investigative reports critical of the Government on an unrelated matter.

In August the pro-government weekly news magazine *Gente* filed a libel suit against cable television news channel Canal N; Hugo Guerra, a senior editor of *El Comercio* (Canal N's parent newspaper); and opposition journalist Gustavo Gorriti for describing *Gente* as having ties to the intelligence service and the Government. *Gente* withdrew the lawsuit on September 20, 4 days after President Fujimori's September 16 announcement calling for new elections and the deactivation of the SIN.

The political opposition, press organizations, and rights groups charged that the Government used improper influence over the judiciary to intimidate and harass the press. Government manipulation of the legal system in these cases is difficult to prove, and in some cases, genuine legal disputes may have occasioned the lawsuits against media outlets. Opposition or independent media seem to encounter a disproportionate number of legal difficulties, including prosecution on tax issues, compared to media outlets that are uncritical of or favorable to the government in their coverage. Prominent cases included a March lawsuit filed by minority shareholders against leading daily newspaper *El Comercio* shortly after the paper exposed a massive signature forgery scheme used to register one of President Fujimori's electoral parties. In the *El Comercio* case, an investigation was opened despite the fact that the statute of limitations on the alleged crime of fraud had expired. The case was closed in July after stockholders reached an agreement on the matter.

In April a judge ordered the seizure of the printing press used to print opposition newspapers *Liberacion* and *Punto Final* as part of a bankruptcy proceeding. In a similar action, a judge ordered the seizure of bank accounts and real estate belonging to *Editora Correo*, a company that publishes a chain of independent papers in the provinces and whose shareholders also have a financial interest in a leading Lima tabloid newspaper *Ojo*. For several months thereafter, *Ojo* cut back substantially on its previously independent political coverage and later stopped publishing editorials.

Journalists continued to be intimidated by potential criminal prosecution when the Government leaves charges against them pending. By year's end, prosecutors had not closed their case for falsification of official documents against Guillermo Gonzalez, director of the NGO *Prensa Libre*, who broke a 1999 story on government wiretapping of opposition political candidates. In May the IACHR issued a recommendation that charges against him be dismissed for lack of evidence.

Throughout the electoral process, a number of tabloid newspapers made character assaults on opposition candidates in what appeared to be a coordinated campaign to tarnish President Fujimori's political opponents and critical members of the press. Intelligence agents allegedly orchestrated this campaign. The six tabloids that carried such attacks had almost identical headlines and text, and similar text also appeared on the Internet.

Suspicious infrastructure problems also seemed to plague opposition or independent media outlets during the election campaign and immediately thereafter, and some suggested that it was a form of harassment against the press. In one incident in February, an electrical failure prevented *Radio Miraflores*, a Lima opposition radio station, from reporting on a provincial tour by opposition candidate Luis Castaneda Lossio. In May a similar electrical outage prevented Canal N from broadcasting a rally for opposition presidential candidate Alejandro Toledo. At the height of the campaign period, from March to May, the Institute for Press and Society, an organization advocating press freedom, suffered systematic attacks on its e-mail system.

In July the Government limited a cable news channel's helicopter's access to the downtown Lima area by banning all civilian aircraft from flying below 9000 feet over the city. This occurred only days before a large-scale protest against President Fujimori's inauguration ceremony was to take place. Critics assert that this prohibited the media from monitoring the protests. CPJ noted that in September the Government prohibited flights over downtown Lima, which according to the Committee to Protect Journalists was a measure promulgated to prevent news agencies from providing aerial news coverage of protests after a scandal involving former de facto SIN head Vladimiro Montesinos became public. The Government stated that the flight restrictions were necessary for public security during the inauguration and protests.

In May Fabian Salazar, a former Channel 2 employee and associate of Baruch Ivcher, and a collaborator for opposition newspaper *La Republica*, alleged that agents from the SIN broke into his office and tortured him by sawing his wrist to

bone (see Section 1.c.). This occurred after he had received a videotape that he claimed compromised high government officials. A full investigation into the matter never was conducted.

The Government does not censor books or publications, films, plays, or limit access to the Internet.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice; however, police used force to disrupt protests during the year, injuring several protesters. The law does not require a permit for a public demonstration; however, organizers must inform the political authority (Prefecto) about the kind of demonstration and its location. Permission may be denied only for reasons of public safety or health. Municipal authorities usually granted permission for demonstrations.

Major demonstrations and political rallies were common throughout the year. Most were peaceful; however, in some cases, police and demonstrators clashed. In those instances, police usually use water cannons and tear gas to disperse the demonstrators. In February over 3,000 labor union, student, and opposition political party representatives protested unfair election conditions. When several protesters carrying sticks and throwing rocks confronted police, police used a powerful water cannon and tear gas to disperse the marchers. The police briefly detained a number of protesters who were throwing rocks and attempting to destroy private property.

On April 9, election day, nearly 100,000 persons gathered in Lima to celebrate the fact that President Fujimori had not won an absolute majority in elections. The event continued into the early morning of April 10, when protesters, led by Peru Possible leader and presidential candidate Alejandro Toledo, marched on the presidential palace. Police dispersed them with tear gas. Clashes between protesters and police were reported throughout the major cities. Some protesters sustained minor injuries.

During the period between April 9 and May 28, when second round presidential elections were held, Toledo led rallies and protests around the country. In mid-April a large protest in central Lima resulted in significant damage to the National Board of Elections (JNE) office building from rocks thrown by protesters, who were believed to be members of the Civil Construction Union. Several injuries were reported.

On July 26–28, approximately 100,000 persons gathered in Lima from all parts of the country to protest the inauguration of President Fujimori. On July 26 and July 27, these demonstrations were peaceful, with no confrontations. However, on July 28, the protests became violent. Small groups of protesters clashed with police at different points of a security perimeter formed to protect politicians and visiting dignitaries attending the inauguration. Unidentified individuals set fire to the National Bank building and the Justice Ministry and caused hundreds of thousands of dollars in damage during a day of confrontations that left six bank security guards dead from a fire. Police used tear gas and water cannons, and charged several persons with arson. The authorities also charged protest organizers for damage. Protest organizers alleged that government agents infiltrated the protests and set the fires. Police officials alleged that extremist groups used the protest as a pretense to provoke violence. Human rights groups allege that police prohibited human rights observers from entering the area of the violent protests to document the events, and that police used excessive force to control demonstrators (see Section 1.c.). The police maintained that they acted in order to ensure the safety of those attending the inauguration.

The Human Rights Ombudsman continued to promote dialog between protest groups and police on basic rules of conduct. Monitors from the Ombudsman's office served as official observers to ensure adherence to these rules by police and protesters alike. The Ombudsman's office reported that these measures reduce significantly tensions and the level of arbitrary arrests, while diminishing the risk of damage to public and private property. According to the Ombudsman, with some exceptions, groups were able to express their opinions publicly, while the National Police generally maintained order in a lawful manner.

The Human Rights Ombudsman worked with groups of protesters to inform authorities of their activities and work out rules of conduct prior to the protests against President Fujimori's inauguration in July. However, during large-scale demonstrations on July 28, the authorities and demonstration organizers failed to agree on ways to reduce the likelihood of confrontations and violence.

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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, the Catholic Church receives preferential treatment from the State. Although the Constitution establishes the separation of church and state, it also acknowledges the Catholic Church as “an important element in the historical, cultural, and moral development” of the nation. The preferential status accorded to Roman Catholicism in public life is apparent in the special treatment and tangible benefits the Church receives from the State, including remuneration to certain clergy and church personnel, and tax exemptions on clergy salaries and real estate holdings. Teaching about Roman Catholicism in primary and secondary schools is mandatory. Conversion to other religions is permitted, and missionaries are allowed to enter the country and proselytize. By law, the military may hire only Catholic clergy as chaplains and Catholicism is the only recognized religion of military personnel.

In April 1998, the President issued an executive order that established basic Catholic religion courses for all public and private primary school students. Religion teachers must be approved by the bishop presiding over the local diocese. Most schools devoted 1 hour a week to such study. Parents who do not wish their children to participate in the prescribed religion classes must submit a written request for an exemption to the school principal. Non-Catholics who wish their children to receive a religious education in their own particular faith are usually free to organize such classes during the weekly hour allotted by the school for religious education, but must supply their own teacher. The Freedom of Conscience Institute (PROLIBCO), an NGO that favors the strict separation of church and state and opposes the preferential treatment accorded to the Catholic religion, opposes the requirement for Catholic teaching in the school curriculum and claims that the alternatives made available to non-Catholic parents violate the constitutional protection of the privacy and confidentiality of persons’ convictions and beliefs.

PROLIBCO and other religious groups legal had challenged the mandatory teaching of Roman Catholicism, but in October the Supreme Court dismissed their claim. PROLIBCO maintains that the ruling was issued in an irregular manner and without prior notice to its lawyers. PROLIBCO claims that the financial subsidies and tax benefits that the Government provides to the Catholic Church and its clergy are far more widespread and lucrative than publicly acknowledged. PROLIBCO also has alleged discrimination against non-Catholic groups who must pay import duties and a sales tax on Bibles brought into the country. At year’s end, PROLIBCO was preparing to take its case to the IACHR.

Sendero Luminoso rejects religion and in the past has threatened and intimidated religious workers.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement; however, passengers on public transportation and drivers in private vehicles may be checked at control points throughout the country. Until February the Government suspended the right of free movement in emergency zones, which had covered approximately 5 percent of the country in 1999, and travelers, including human rights monitors, could be prohibited from traveling to those areas. The Government eliminated all emergency zones in February.

There are no political or legal constraints on foreign travel or emigration; however, the authorities legally can restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship; however, according to the Nationality Law, naturalized Peruvians can 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.” Critics believe it was the Nationality Law that provided the Government with the legal basis for its 1997 invalidation of the citizenship through naturalization of Israeli-born television owner Baruch Ivcher. However, the Government claimed that its decision was based upon irregularities in Ivcher’s original naturalization petition 13 years earlier. In October the Government agreed to restore Ivcher’s citizenship and subsequently did so (see Section 2.a.).

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley.

Political violence in the 1980’s and early 1990’s resulted in the internal displacement of hundreds of thousands of persons from their original homes, and massive migration. Most families migrated to Lima or to one of several other department capitals. This movement created problems which, for the most part, remain unresolved despite continued efforts by the Government and NGO’s to address them.

According to the Ministry for the Promotion of Women and Human Development (PROMUDEH), since 1995 the Program for the Repopulation and Development of Emergency Zones (PAR) has supported the return of between 450,000 and 600,000 displaced persons. The PAR has assisted thousands of these persons to return to their homes; however, the PAR and NGO's agree that the majority of displaced persons have not returned permanently to their original communities due to various factors, including economic changes and social ties.

Despite governments and NGO efforts, many displaced persons lack basic documentation, such as birth certificates and voter registration cards. The Government established a PAR office to provide documentation that can be used both to request PAR assistance to return to one's community of origin and to apply for a national identity card. In 1999 the Government conducted a national registration drive to provide displaced persons with identity documents, which are required for a variety of social and other government services, and to register them to vote in the April national elections. According to NGO's and election monitors, this program was successful in reaching millions of voters across the country.

Another unresolved problem related to the displaced persons are pending arrests warrants against approximately 5,000 such persons, who fall into the category of "requisitorados"—persons who were forced to join terrorist groups and who were accused falsely of voluntarily joining such groups and continue to have outstanding detention orders against them. Judges from the special Terrorism Court traveled from Lima and dismissed 300 such warrants during the year (see Section 1.d.). The pending legal status of such persons, along with the fact that the majority of these individuals speak only Quechua, increases their vulnerability and reduces even further their capacity for economic and social integration into urban areas.

Sendero Luminoso continued to coerce indigenous people to join its ranks during the year, which resulted in further internal displacement. There is also a large population of indigenous Ashaninkas who have faced not only a terrorist threat, but also the encroachment of oil exploration companies on their tribal lands (see Section 5).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The Commission also advises citizens who fear persecution at home and seek asylum abroad. The Government recognized 24 persons as new refugees during the year. There were approximately 756 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually. The question of first asylum did not arise.

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

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

The Constitution provides for the right of citizens to change their government; however, serious problems in the process of elections held in April and May, including questions about President Fujimori's constitutional eligibility to be a candidate, the registration of candidates, allocation of Government resources to influence voters, and intimidation of the opposition, led domestic and international observers to call attention to the flawed nature of the process and to question the validity of election results and the state of democracy in the country. In September President Fujimori announced that he would exercise his constitutional power to convoke new national elections, to be held in April 2001, and in which he would not be a candidate. In November Congress removed President Fujimori for "moral incapacity," and President of Congress Valentin Paniagua succeeded to the presidency. Voting is by secret ballot and mandatory for all citizens between the ages of 18 and 70. Members of the armed forces and the police, as well as felons, are ineligible to vote. The law bars groups that advocate the violent overthrow of the Government from participating in the political process.

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. ONPE administers elections and the RENIEC issues election identity documents. Many complaints about the elections centered around the executive branch's dominance of the JNE and ONPE, and their inability to administer elections in an unbiased man-

ner. In October and November, Congress passed legislation that allowed the Government to appoint new leadership for these institutions. By year's end, ONPE had a new director who had replaced over 100 of the organization's 180 permanent employees; 4 of 5 magistrates of the JNE also were replaced. In December Congress approved the creation of multiple district representation for electing members to Congress, which was designed to provide more specific geographic representation.

The Constitution stipulates that the President can be elected to a term of 5 years and may be reelected for one additional successive term. On December 27, 1999, President Fujimori announced his candidacy for a third term, on the grounds that he had completed only one full term under the 1993 Constitution. On December 31, 1999, the JNE dismissed 18 objections filed by opposition groups, political parties, and other civic groups who argued that a third term would be unconstitutional; the JNE claimed that it rendered its decision on technical grounds. The Human Rights Ombudsman subsequently stated that the JNE's decision did not correspond to constitutional law, but that because the Constitution vested the JNE with the final decision on electoral matters, citizens had to respect the JNE's decision.

The undermining of the Constitutional Tribunal by congressional action in 1997 (see Section 1.e.) set the stage for Fujimori's ability to seek a third term. Constitutional challenges to Fujimori's candidacy for a third successive term rested largely on a series of controversial actions taken by the executive-dominated Congress. In 1996 Congress passed the Law of Authentic Interpretation, which declared President Fujimori's 1995 victory as his first under the 1993 Constitution. In 1997 opponents of the law challenged its constitutionality, but the Constitutional Tribunal was unable to obtain the six of seven votes needed to overturn the law. Congress subsequently voted to remove three members of the Tribunal who had announced their nonbinding opinion that the law could not apply to Fujimori, leaving the Tribunal effectively unable to rule on any constitutional issues for lack of quorum.

In the April 9 elections, in accordance with the 1997 election law, 10 registered political parties presented 120-candidate slates for Congress, and 9 parties presented presidential candidates; the Peru 2000 alliance presented President Fujimori as a candidate. Local NGO's, the Human Rights Ombudsman, and international groups monitored the electoral campaign and the first round of elections. These groups enjoyed access to electoral institutions and government officials. However, there were attacks in pro-government media against some of these groups at various points in the campaign (see Section 2.a.). At the Government's invitation, the OAS sent observers for the April 9 elections. OAS observers also worked with local electoral institutions in preparations for the second round runoff, but none of the observer groups fielded monitors for the May 28 runoff elections because of the Government's unwillingness to postpone the election date so that vote tabulation software could be tested.

International and domestic observers viewed the general elections on April 9 and presidential runoff elections on May 28 as significantly flawed. Conditions for free and fair elections fell short of international standards. Several factors created a seriously flawed electoral process: disagreement over the legitimacy of President Fujimori's candidacy for a third consecutive term; complaints by opposition candidates of unfair campaign conditions that favored pro-government candidates; lack of public confidence in electoral institutions; and lack of transparency in vote tabulation and reporting. Although the Government took steps to improve the electoral environment, they were insufficient to ensure a level playing field.

Preelection conditions heavily favored government candidates. Several groups of electoral observers reported that government resources were used to the benefit of Fujimori's candidacy and others in his coalition. There were credible reports that military and police personnel worked on behalf of the pro-government candidates. The NGO Transparencia filed 170 formal complaints regarding use of government resources; the Public Ministry dismissed all but 2 of the complaints. In one case, prosecutors dismissed a complaint that employees of a public welfare and nutrition service distributed pro-government campaign literature. In another, the national tax authority conducted a surprise audit of one of the opposition candidate's businesses.

The JNE refused to investigate opposition complaints in many of these cases, stating that it did not have the resources or mandate to investigate. When the JNE or the Public Ministry did investigate, charges frequently were dismissed for lack of evidence. Only after repeated complaints from electoral observers did the JNE pledge to investigate use of government land for pro-government party paintings and signs. The President also issued a nationwide executive order against use of government resources. However, these measures were adopted too late in the campaign to overcome a widespread impression of preferential treatment enjoyed by the Peru 2000 alliance.

The preelectoral period also lacked impartiality and effectiveness in the administration in some significant areas. In late February, the newspaper *El Comercio* reported that a member party of the President Fujimori's Peru 2000 alliance had falsified over 1 million voter signatures in its registration drive. Accounts by 4 participants in the scheme detailed a large operation in which over 400 persons participated. The group allegedly worked for 1 month in a building behind the offices of pro-government legislator Oscar Medelius. Others accused of involvement included Peru 2000 official Luis Navarrete and Peru 2000 Secretary General Daniel Chuan. ONPE, the JNE, and the Attorney General pledged to investigate the allegations. ONPE concluded that the JNE had jurisdiction, and in March ONPE sent the JNE its report, along with the forged documents in question. In April the JNE deferred to the special prosecutor appointed to investigate the case. The JNE also ruled that Congress would have jurisdiction over legislators selected with alleged links to the scandal. In July Congress absolved the legislators linked to the forgery scandal.

In June the prosecutor filed charges against the witnesses who had exposed evidence implicating government employees, and who had themselves participated in the falsified signatures scheme. In September a judge dismissed charges against the informers, while the National Council of Magistrates opened an investigation against ONPE director Jose Portillo for allegedly investigating the case improperly. In October a judge ruled that no crime had been committed because official documents had not been falsified. However, the CNM removed Portillo from office.

Opposition candidates did not receive equal access to broadcast television station news coverage, and the pro-government tabloid press conducted smear campaigns against them (see Section 2.a.). The JNE claimed that it could not intervene because media laws did not give it authority to dictate programming on privately owned television stations. Formal complaints by candidates to the JNE often were dismissed for lack of evidence. Beginning in late March, broadcast television stations provided broadcast time to opposition candidates, but these spots were usually not aired during peak viewing hours. Though the opening reflected a government response to electoral observer criticism, the measure came too late to reverse the ill effects that opposition candidates had suffered from earlier lack of media access. Throughout the campaign, broadcast television coverage favored President Fujimori.

The April 9 elections were largely peaceful, and millions of citizens participated as voters, election workers, political party observers, and election monitors. Over 31,000 volunteers affiliated with local NGO's worked as poll monitors. International monitors found no specific instances of fraud during the polling.

However, there were widespread irregularities in the voting and vote tabulation processes. Observers cited illegal propaganda in or around polling areas as the most common irregularity. They also reported irregularities in voting materials, such as premarked ballots and some missing the name of the leading opposition candidate as a choice. Observers reported several instances of attempted intimidation of political party observers by police and military officials demanding their names and identification documents. Several hundred voting sites reported that more ballots were cast than the number of voters who had signed in. (Under the electoral law, the authorities count the extra votes unless the number of ballots exceeds the number of registered voters at that site.)

Several problems marred the vote tabulation and computation. Several vote tabulation centers did not open until late in the day. There were problems with the computer systems used to count the vote, and ONPE was unable to conduct a successful simulation of its data collection and tabulation process until shortly before polls closed. Although observers and party monitors were allowed to watch the computation at ONPE and regional collection centers, the systems used did not allow for independent verification of the results.

ONPE presented only partial results of the presidential returns on April 9, and an inexplicable delay in the computation created widespread allegations that politicians or others influenced the count. Election day exit polls and quick counts by the NGO *Transparencia* and polling firms showed that no candidate had won over 50 percent of the vote and that a runoff would be necessary. Electoral authorities released additional election results on April 12, and announced that it was "mathematically impossible" for any of the candidates to have won the first round. The next day officials confirmed definitively that there would be a second round. Final official results of the first round presidential elections were declared on April 28. Electoral monitors concluded that the vote tabulation and announcement process lacked transparency and created a lack of confidence in the official results.

After the announcement that no presidential candidate had won in the first round, the Government negotiated with second place candidate Alejandro Toledo and the OAS regarding measures to improve electoral conditions. Several working groups formed by the Human Rights Ombudsman, ONPE, the OAS, and the polit-

ical parties worked to address access to the media and media coverage, reform of ONPE's vote tabulation computer programs, and training of electoral personnel. While these groups made significant progress, the OAS sought postponement of the second round election to test ONPE's voting data computer programs.

Toledo withdrew from the race 10 days before the May 28 runoff, citing unfair electoral conditions and the Government's refusal to postpone the elections at the OAS's request. However, the JNE rejected his petition to remove his name from the ballot, and Toledo urged his supporters to purposely spoil their ballots in protest. On May 28, according to ONPE's unverifiable results, President Fujimori won 51 percent of the popular vote. Toledo won 17.68 percent of the votes and 29.93 percent were spoiled ballots of null. Observers, with the exception of one group, refused to monitor the vote, and Toledo and other opposition groups charged that the results were fraudulent.

Definitive results from congressional elections were not released until May 12, which also raised questions about the validity of those results. The JNE ratified the congressional results the same day, despite a number of pending challenges, including some claiming fraud. On April 12, initial returns had indicated that no party had won a controlling majority; however, in subsequent result announcements, there were significant changes in the results that favored pro-government candidates. There were, moreover, many changes of party affiliation that drew many representatives elected from opposition party lists to the pro-government coalition in Congress. By the time the new Congress was sworn in on July 24, nearly a dozen legislators elected on opposition slates had changed parties to join the Peru 2000 alliance, which gave it a majority in the 120-seat unicameral Congress. There were widespread allegations of bribery, blackmail, and other illegal and questionable practices; however not all party affiliation changes were necessarily the result of illegal actions. For example, the promise of a position as committee chair or the potential of being able to help a regional constituency was a factor cited by some who changed party affiliation. However, circumstantial evidence suggests that questionable practices were used in a number of instances. Luis Caceres Velasquez was declared ineligible for Congress due to a previous felony conviction. After he declared his intent to change from an opposition to the government party, the Supreme Court overturned the conviction and the JNE gave him back his seat. Edilberto Canales, implicated in a vote buying scandal, changed alliances and his legal problems were settled. Jorge Polack, who complained that he had been harassed by criminal legal proceedings because of antigovernment views broadcast on his radio station, had charges against him dropped after he changed his membership to the ruling party.

There were also widely reported irregularities in ONPE's tabulation of preferential votes for individual Congressional candidates. Several parties alleged that ONPE employees had been bribed to alter voting results. The Attorney General appointed a special prosecutor to investigate these allegations. In June JNE officials declared that Congress would be responsible for investigating newly elected legislators who allegedly benefited from manipulated results. On July 6, Congress approved a report that found 31 ONPE data entry officials, several regional ONPE center managers, and ONPE's information chief responsible for altering voting returns. The report concluded that five legislators representing government and official parties who benefited from the altered vote bore no responsibility. A television news program reported that of the 30 congressional candidates who benefited from alteration of the individual preferential vote count, 10 eventually were elected. By year's end, none of these elected legislators had been investigated for violating election laws.

In June the OAS General Assembly discussed the country's elections. OAS election monitoring mission head Eduardo Stein reported that the elections had been carried out in accordance with international standards. The OAS foreign ministers concluded that "the credibility of both the process and the outcome of those elections has been undermined by persisting reports of irregularities" and agreed to send OAS Secretary General Cesar Gaviria and Canadian Foreign Minister Lloyd Axworthy to Peru to establish a dialog on reforming the country's democratic institutions.

The OAS mission met with government officials, members of the opposition, and civil society representatives in late June and developed 29 recommendations grouped in 5 categories: (1) ensuring judicial independence; (2) freedom of expression and the media; (3) electoral reforms; (4) supervision and balance of powers among the executive branch and congress; and (5) measures to strengthen congressional oversight, reforms to the intelligence and military services. Although opposition and some civil society groups continued to call for new elections, the OAS delegation noted that the OAS General Assembly mandate explicitly precluded discus-

sion of new elections. However, delegates of the OAS added that local figures were not precluded from continuing to advance new elections.

The OAS dialog began in August. At the opposition's insistence, the Government agreed to form four working groups to address priority issues including the return to the Inter-American Court of Human Rights, the reestablishment of the Constitutional Tribunal, the resolution of Baruch Ivcher's nationality and ownership of television stations 2 and 13 (see Sections 1.d. and 2.a.), and the reorganization of the intelligence services.

In September Moral Independence Front party leader Fernando Olivera presented a videotape showing opposition legislator-elect Alberto Kouri taking a \$15,000 payment from then-de facto intelligence service chief Vladimiro Montesinos. The video showed Montesinos presenting Kouri with a contract committing him to switch party alliances. Montesinos was recorded remarking that he was aiming for a pro-government majority of at least 70 seats. When asked about the transaction, Kouri claimed that the money was a personal loan. Congress formed a committee to investigate Kouri and suspended him for 120 days. Kouri left the country when he learned of the investigation.

The airing of the tape also apparently influenced President Fujimori to announce on September 16, that there would be new national elections in which he would not be a candidate. He later appointed a special prosecutor to investigate Montesino's role in illegal activities. By year's end, the investigation had expanded to include investigation into his role in money laundering, illegal arms sales, narcotics trafficking, and bribery of public officials. Montesinos fled the country in October in order to avoid prosecution in these matters.

On November 22, President Fujimori sent his resignation to Congress from Japan, where he remained at year's end. Congress refused to accept his resignation and instead voted to remove him from office for "moral incapacity." The President of Congress Valentin Paniagua of the Popular Action Party succeeded to the presidency on November 22. He announced that he would uphold legislation allowing for new presidential and congressional elections in April 2001, and he accelerated the implementation of democratic reforms initiated in the OAS-sponsored talks.

By November participants in the OAS talks had agreed upon, and Congress had ratified, amendments to the Constitution that would end the term of the President and Congress in July 2001, thereby making new elections possible. The OAS dialog also produced agreement on deactivating the SIN, with provisions for including a civil society member in the executive branch's oversight commission and for creating a bipartisan congressional oversight committee.

The OAS dialog drew to a close after Paniagua assumed the presidency in November. Congress approved and the Paniagua administration continued to implement many of the OAS recommendations. By year's end, the Government made significant legal and electoral reforms (see Section 1.e.).

Legal actions against potential opposition candidates for congressional campaigns removed some of them from eligibility for public office. In 1999 Congress passed a law prohibiting candidacies for certain offices such as president or congress by anyone who had served in high office and had been charged with a crime against the State. In effect this law presumes the guilt of any persons charged but not convicted of a crime and removes the right to compete for office. This law disqualified former Labor Minister Jorge Mufarrech and Representative Beatrice Merino from standing as candidates. Congress annulled the law in October.

Women and some minorities participate actively in government and politics, although they are under-represented in both fields. From August to November, the president and three vice presidents of Congress were women. In December Congress amended the electoral law to include provisions requiring parties to include at least 30 percent of candidates on their slates to be of each sex; previously the level was 25 percent. At year's end there were 26 women in the 120-seat Congress. One of 15 cabinet ministers and several vice ministers are women, as are 3 of the 36 judges of the Supreme Court, and the Attorney General. In conjunction with the year's election campaign, four women's organizations sought to identify female candidates, promote women's interests, increase the number of female voters, prepare a woman's political agenda, and train women who were elected to office.

Citizens of Asian descent hold numerous leadership positions in government; former President Fujimori is of Japanese descent and one recent president of the Council of Ministers was of Chinese descent.

Several members of Congress have mixed ancestry, and a recent Vice President was a Quechua speaker, as was a recent Minister of Transportation and Communications. However, it is rare for indigenous people, who make up more than one-third of the population, to hold high public offices. The Afro-Peruvian minority, unofficially estimated at 3 to 5 percent of the total population, is not represented in

the leadership of any branch of the Government. There are three Afro-Peruvian members of Congress.

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

In general the Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely; however, the authorities at times sought to hinder the operations of human rights monitors, including harassment of members of the National Human Rights Coordinator.

Military commanders often did not grant access to local and international human rights monitors to investigate alleged abuses on military bases. However, by year's end, this policy began to change under the Paniagua administration. In December members of the Human Rights Ombudsman's office were granted access to the naval military prison in Callao for the first time ever.

Government, military, judicial, and police officials, as well as some members of Congress publicly accused NGO's and the IACHR of being overprotective of criminals and terrorists to the detriment of victims. These statements at times created a hostile environment for human rights groups but did not appear to hamper their ability to carry out their work. For much of the year, communication between the human rights community and the military ranged from strained to nonexistent. However, dialog between the NGO human rights community and civilian authorities improved significantly with the opening of the OAS sponsored dialog in August (see Section 3). By year's end, human rights organizations and the Government were represented in a number of the working groups which were examining legal reforms and pursuing the idea of a truth commission to examine past human rights abuses. Human rights community members reported that the Paniagua administration had initiated improvements in government-civil society relations, including the appointment of several former NGO leaders to his cabinet.

Most human rights NGO's are independent, thorough, and generally objective. The National Coordinator for Human Rights (Coordinadora), established in 1985, provides an umbrella organization for 60 human rights NGO's. The Coordinadora does not politicize its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate on the margins of the Coordinadora.

The Office of the Human Rights Ombudsman, created in 1993, receives funds from the Government and foreign governments and is considered an independent and effective institution for bringing citizens justice. The Ombudsman has investigative independence and the ability to inform the public of his conclusions and recommendations. However, the office has no enforcement mechanism other than moral suasion. Because of its reputation and role in society, the Ombudsman's office was asked to join in the OAS dialog to address the problems of the election and the ongoing process of democratization. The Ombudsman's office issued reports throughout the year on the elections, freedom of the press, the activities of the ad hoc Pardons Commission, the situation of 4,000 unresolved disappearance cases, and an annual report on the overall human rights situation, among others.

The Human Rights Ombudsman has a legal mandate to monitor prison facilities. However, until December, Ombudsman representatives continued to be denied access to the military prison in Callao (see Section 1.c.).

In July the IACHR published a report updating its 1998 factfinding mission. Although the Government welcomed the Commission's recognition of action it had taken, such as the creation of the Human Rights Ombudsman's office and the abolition of faceless judges, the report concluded that the Fujimori administration continued to reject the Commission's call to return to the Inter-American Court (see Section 1.e.). The IACHR report also noted the existence of impunity, restrictions on the freedom of expression, significant problems regarding the free practice of political freedoms and flawed elections, and the subjugation of the other branches by the executive branch under the Fujimori administration. In addition, the report stated that the significant problems that occurred during the electoral process were the "foreseeable outcome of several years in which the arbitrary will of the Government has prevailed over the law and democratic institutions."

Human Rights Watch and other groups reported on harassment or attacks on human rights workers. Among such attacks were telephonic threats against Jesus Agreda Paredes, who investigated the death of a detainee in police custody, and death threats against members of the Legal Defense Institute. NGO's reported that such harassment and threats dropped significantly after the Paniagua administration took office in November.

In July 1999, the Government announced its decision to withdraw from the contentious jurisdiction of the Inter-American Court of Human Rights after the Court determined that the Government failed to provide due process in the case of four Chileans convicted of treason by a military tribunal. Members of the OAS dialog discussed with the Government terms for its return to the Court beginning in August. By year's end, legislation approving a return to the Court's jurisdiction had been approved by committees and was waiting for a plenary vote, and the Government was preparing to return to the Court's contentious jurisdiction.

At least two human rights organizations reported theft of their documentation during the year. On November 1, burglars stole computers and other documentation that the Human Rights Commission collected regarding human rights violations. On November 4, armed burglars broke into the office of the NGO Peace and Hope in Lima. The burglars held a security guard at gunpoint while they removed information from computers. In both cases burglars did not take valuable items or machines. AI alleged that the burglaries were organized by the SIN, and that their objective was to intimidate the human rights community. Police investigations had not identified those responsible by year's end.

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

*Section 5. Discrimination Based on Race, Sex, Religion, 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, religion, opinion, or economic condition. Nevertheless, discrimination against women, the disabled, indigenous people, and racial and ethnic minorities continued, although progress is being made in a number of areas. In December Congress passed legislation that made racial discrimination a crime.

*Women.*—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, continued to be a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims of abuse. A 1999 Population Council study estimated that 80 percent of women surveyed were beaten by their husbands. Human rights organizations believe a large number of domestic violence cases remain unreported. Nationwide in 1998 there were 27,935 complaints of domestic abuse (77 percent for violence and 23 percent for psychological abuse). Although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that the vast majority of reported cases do 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 is limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

The 1997 domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home. The law also authorizes the victims' relatives and unrelated persons living in the home to file complaints of domestic violence. Whereas previously victims of domestic violence had to have a specialist in legal medicine certify their injuries and had to pay for the report, the new law eliminated the required fee and stipulated that the report may be prepared by any health professional. In March Human Rights Watch called on the Government to improve legislation on domestic violence by eliminating mandatory conciliation sessions between victims and abusers, and by providing law enforcement and social service providers with training to improve their sensitivity to victim's needs.

In March 1999, PROMUDEH created the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. The program received approximately 9,000 cases during the year. PROMUDEH continued its public education campaign to sensitize government employees and the public on domestic violence.

According to the Human Rights Ombudsman's office, many women complain that police officers react indifferently to charges of domestic violence, even though the law requires all police stations to receive such complaints. The Ministry of Women's Advancement and Human Development, with NGO assistance, educates police about domestic violence and trains officers in all police stations in processing domestic violence cases. The Ministry also runs over 30 facilities, staffed entirely by women, that bring together in one place representatives of all government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might have recourse.

According to the Human Rights Ombudsman, many rape victims complain that court-appointed medical examiners inappropriately delved into their past sexual histories. They also 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.

In 1999 Congress responded to an appeal from the Human Rights Ombudsman and amended the Criminal Code to provide greater protection to victims of sexual violence. The amendments eliminated provisions that had allowed rapists and other sexual predators the opportunity to avoid prosecution if they reached a private settlement with their victims. In addition, the Ombudsman recommended rescinding the provision that specifies that, in cases of sexual abuse of victims over 14 years of age, only victims themselves may file a complaint; in November, the Government rescinded that provision of the law. Many victims are afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators were police officers.

In 1999 the Human Rights Ombudsman published an updated report on sterilization without informed consent of women in public hospitals and family planning clinics, and the Government took action on some of its recommendations during the year (see Section 1.f.). Acting on the Human Rights Ombudsman's findings, clinics implemented procedures to insure that patients are fully apprised of their options and their consequences. There were isolated complaints regarding this problem during the year.

The Constitution provides for equality between men and women, and the 1995 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 training opportunities is prohibited; however, it continues to occur in practice. In 1998 Congress removed the police rank of health-care professionals in police hospitals and accorded them civilian status only. Since over 80 percent of such professionals are women, the Human Rights Ombudsman challenged the constitutionality of the new law and its implementing regulations, on grounds of discrimination. The Superior Court of Lima ruled against the Ombudsman, who then appealed to the Supreme Court. By year's end, the Supreme Court had determined that the workers were stripped improperly of their police rank but had not made a decision concerning damages. In 1999 the Congress passed legislation protecting pregnant women against arbitrary firing.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Because of societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment. "Mibanco," a program supported by the Government and a consortium of NGO's, represents an effort to improve women's ability to generate income by providing credit to small businesses started by enterprising women. More than 60 percent of its clients are women.

*Children.*—The Government provides free, compulsory education through secondary school. Education is generally available throughout the country. However, 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 have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 47.7 percent for children under 5 years old, 51 percent for children ages 5 to 9 years old, and 49.9 percent for children age 10 to 14. School nonattendance is highest in rural and jungle areas and affects girls more than boys. In 1998 Congress amended the Child and Adolescent Code to provide pregnant school-age girls with the right to begin or continue attending school. The law also provided for regional offices to enforce children's rights.

The Children's Bureau of the Ministry of Women's Advancement and Human Development coordinates child and adolescent related government policies and programs. The National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children throughout the country.

At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate some 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. Settlements

adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children are serious problems. It is estimated that only 10 to 20 percent of mistreatment and abuse cases are reported, since many persons believe that such problems belong within the family and should be resolved privately. Nonetheless, in Lima alone, at least 400 rapes of minors are reported annually.

According to the 1993 Census, 69.6 percent of children 6 to 17 years old lived in poverty. Of these, roughly half live in rural areas. Of all children and adolescents under 17 years of age, 20 percent live in extreme poverty. In 1996 the infant mortality rate was 43 per 1,000. However, this figure masks wide regional disparities: it is 30 per 1,000 in urban areas, compared with 62 per 1,000 in rural areas. Approximately 26 percent of children under age 5, and 48 percent of children ages 6 to 9, suffered from chronic malnutrition. In those homes where the mother has a low level of education, as many as 50 percent of the children suffer from chronic malnutrition, and 114 per 1,000 die from preventable causes before they reach age 5.

According to a study by the National Institute of Statistics, children who live in poverty are less likely to reach high levels of education. The study indicated that approximately 75 percent of children not living in poverty attend school through the high-school level, whereas, only 43 percent of children living in poverty reach high school. Children living in poverty average only 4.5 years of education, compared to 9.3 years for children living above the poverty line. Only 1.2 percent of children living in extreme poverty attain university-level education, compared with 25.6 percent of children who live above the poverty line.

Street crime committed by children and adolescents, including robbery, physical assault, and vandalism, is often gang-related. According to a 1998 congressional commission study, gangs carry out 75 percent of all acts of vandalism, 29 percent of assaults, and 23 percent of robberies. The majority of these crimes are committed under the influence of drugs and alcohol, and their underlying causes are unemployment, nonattendance at school, and difficult family relationships.

In 1999 the Government repealed a series of measures that had been used to reduce street crime, including prosecuting 16- to 18-year-old criminal gang members in military courts and sentencing those convicted to no less than 25 years in adult prisons.

As many as 1.9 million children work to help support their families. Of this total, some 500,000 children are under the age of 14, while 700,000 are between the ages of 15 and 17 (see Section 6.d.).

Although laws exist that prohibit sexual abuse of minors and police enforce such laws, there continued to be reports that minors work in the sex trade.

*People with Disabilities.*—The Constitution provides that severely disabled persons have “the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security.” In 1998 comprehensive legislation established the National Council for the Integration of People with Disabilities and specified the rights, allowances, programs, and services that should be provided for the disabled. The statute 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. However, in practice the Government devotes little attention and resources to the disabled, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of the disabled into the economy possible. According to the National Coordinator of the Association of Disabled People, the Government allocates an annual budget of approximately \$250,000 (1 million soles) to integrate the disabled into the economy. 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 disabled workers to be productive. As a result, disabled individuals and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 disabled persons, or 1.3 percent of the population; however, the Ministry of Health and the Pan American Health Organization estimate that the actual number of disabled persons could be as high as 3 million, or 13.8 percent of the population.

It is difficult for many disabled persons to obtain insurance coverage because carriers typically believe that a severe disability necessarily increases a person’s vulnerability to accidents and illnesses.

Although construction regulations mandate barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. Nor do accommodations exist, such as accessible polling stations, interpreters for the deaf in government service offices, and Braille or recorded versions of the Constitution, which would facilitate the participation of the disabled in the basic processes of democracy and citizenship. The Government made efforts to make voting easier for disabled persons in the April and May elections, although there were many complaints about inadequate access. In November the Human Rights Ombudsman's office announced a program to facilitate voter education and access for the handicapped for elections scheduled for April 2001.

According to officials of the Institute for Social Security, less than 1 percent of severely disabled citizens actually work. Among those who do, many have been channeled into a restricted number of occupations traditionally assumed to be "suitable" for the disabled, such as telephone switchboard operation and massage, in the case of the blind. Some private companies have initiated programs to hire and train the disabled, and a private foundation provides small loans to the disabled for the purpose of starting their own businesses. Nevertheless, disabled persons faced discrimination by potential employers. For example, the statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a discriminatory provision that the National Judiciary Council has interpreted to apply to all persons with disabilities. In 1998 SEDAPLA, Lima's water utility, dismissed all its blind switchboard operators, ostensibly as part of a nondiscriminatory, across-the-board cost-cutting measure. However, the chief advocate for the disabled in Congress reported that all the blind operators immediately were replaced by younger, sighted recruits. The disabled only recently have begun to organize and demand equal rights and opportunities as a minority.

*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 indigenous population still faces pervasive discrimination and social prejudice. Many factors impede the ability of indigenous people to participate in, and facilitate their deliberate exclusion from, decision making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the provisions in the 1993 Constitution and in subsequent implementing legislation regarding the treatment of native lands are less explicit about their inalienability and unmarketability than were earlier constitutional and statutory protections. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous people lack such basic documents 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.

Persons of indigenous descent who live in the Andean highlands speak Aymara and Quechua, which are 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. A 1998 regulation stipulating that all school teachers be certified initially caused fears that uncertified indigenous teachers would lose their jobs, and that the continued use of Aymara and Quechua as languages of instruction, as well as the very survival of indigenous cultures, had been put in jeopardy; however, due to the unwillingness of many certified teachers to work in rural areas, uncertified Aymara and Quechua-speaking teachers continue to work.

The native population of the Peruvian Amazon, estimated at between 200,000 and 300,000 persons, faces 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.

Many other factors also contribute to the marginalization of indigenous people in society. Poor transportation and communications infrastructure in the highlands and in the Amazon jungle region makes political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government action in Lima further limit the access and participation of indigenous people in society.

In many jungle areas, encroachment on native lands comes from a variety of sources, including colonists and coca growers, terrorists, and business interests in search of exploitable natural resources. For example, there are approximately 25 oil

exploration fields and numerous gold mining operations on indigenous lands in the Amazon region. The 45,000 Aguaruna and the 5,000 Huambisa people, who inhabit the area near the Peru-Ecuador border are only two of many indigenous groups that complain about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 Achuar people live in 36 communities, only 12 of which have title to their land. In addition, the Achuar are fighting an incursion by oil exploration and drilling interests, as well as against a government-sponsored influx of colonists. Title to land does not include mineral or other subsoil rights; this condition leads to conflicts between mining interests and indigenous communities. Such encroachment often can damage the environment and negatively affect the health of the native people. About 20 indigenous groups in the Amazon Basin have requested communal reserves to hunt game, which is allowed under the law, but the Government took no action on this request.

The two principal NGO's that represent the interests of the native population of the Peruvian Amazon are 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 coordinates the activities of the country's indigenous population. Both AIDSESEP and CONAP are 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. However, CONAP believes that mining and other development operations are inevitable and, therefore, wants native communities to share appropriately the benefits of that development. AIDSESEP remains opposed to territorial encroachments by government, commercial, and other interests.

Although indigenous rights advocates protest the low priority assigned by the Government to the socioeconomic condition of indigenous people and the lack of consultation regarding matters affecting their welfare, the Human Rights Ombudsman believes that the Government's attitude has changed. The Government's Indigenous Affairs Commission, formed in November 1998, is working to fulfill its mandate to coordinate all available state services to meet the needs of indigenous people better. The Commission, which is chaired by the Ministry of Women's Advancement and Human Development, has among its members officials from a variety of relevant ministries as well as four representatives of the indigenous peasant population in the highland and coastal areas and the native population of the Amazon jungle. In 1999 Congress created an Indigenous Affairs Committee; however, the Committee was largely inactive during the year.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. Isolated primarily along the Ene River in Junin department, Sendero Luminoso continued to coerce indigenous Ashaninkas to join its ranks, which resulted in further internal displacement in this region.

*National/Racial/Ethnic Minorities.*—In December Congress passed legislation that made racial discrimination a crime. The minority population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tend to be concentrated along the coast, often face discrimination and social prejudice, and they are among the poorest groups in the country.

Afro-Peruvians generally do not hold leadership positions in government, business, or the military; however there are three Afro-Peruvian members of Congress. Both the navy and the air force are widely believed to follow unstated policies that exclude blacks from the officer corps. The law prohibits employment advertisements in the newspapers from specifying the race of the candidates sought, but employers often find 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 significantly discriminatory practices. In one reported case, a foreign diplomat and his family were denied membership to a prestigious Lima social club because of race.

According to two organizations specializing in the rights of persons of African descent, police continue to detain persons of African descent on suspicion of having committed crimes, on the basis of their skin color. Similarly, police rarely act on complaints of crimes against Afro-Peruvians. Afro-Peruvians are portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although Peruvians of Asian descent historically have suffered discrimination, their social standing has improved markedly during the past decade, as the country has sought to emulate Asia's earlier economic growth and as the Asian community achieved financial success. In addition to former President Fujimori, who is of Japanese descent, many other persons of Asian descent hold leadership positions in business and government.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the law provide for the right of association; however, worker rights advocates claim that the laws are overly restrictive. About 5 percent of the total work force of 8.5 million belong to organized labor unions. More than half of all workers participate in the informal sector of the economy. Workers are not required to seek authorization prior to forming a trade union, nor can employers legally condition employment on union membership or nonmembership. However, groups including the International Confederation of Free Trade Unions (ICFTU) assert that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, fail to protect the rights of workers to form unions. Labor rights advocates claim that many workers are reluctant to organize due to fear of dismissal.

The International Labor Organization (ILO) indicated that several aspects of the labor law are not consistent with the international standard of freedom of association. The ILO specifically criticized a provision that permits businesses to employ youth workers between the ages of 16 to 25 as up to 30 percent of the workforce; workers in this age bracket are precluded from union membership and participation. The ILO requested modifications to the laws that regulate 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.

Unions represent a cross section of political opinion. Although some unions traditionally have been associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. The several union leaders who ran for Congress in the April elections all did so in their own names, without official union sponsorship. Nevertheless, some union activists who run for public office receive unofficial backing from their unions.

The main union confederations have criticized the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers, including the freedom of association. Unions also complain that the law eliminates the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, the legislation allows companies to offer financial compensation instead of reinstatement. Although the law prohibits companies from firing workers solely for their involvement in union activities, this provision has not been rigidly enforced. In practice, the legislation continued to have a negative impact on the right of association by making it easier for companies to fire workers involved in union activities. There is no legal protection against employer interference in trade unions.

The Peruvian General Workers' Union (CGTP) and other labor groups held several general strikes throughout the country during the year. According to press accounts, one strike in August drew support from civil service workers, health providers, and construction workers, as well as support from a broad range of religious and social organizations and opposition politicians. In September a work stoppage culminated in protest marches around the country, including a large gathering of up to 20,000 persons in downtown Lima. The Government took no actions to prevent the strikes or reprimand participants.

On July 25, unknown persons broke into the headquarters of the United Worker's Center (CUT) and stole printed material and other items just before the Four Quarters March. The ICFTU noted that the police refused to register the CUT's complaint or begin an investigation. Moreover, the ICFTU asserted that police officers attempted to infiltrate union and other demonstrators who were planning the march.

Confrontations in Lima between union-affiliated protesters and police occurred in several different instances. In some cases these confrontations were reportedly provoked by protesters who burned tires, threw rocks, and tried to destroy public and private property. Police action resulted in injuries in several cases.

In August medical workers undertook a 2-day strike to protest low wages and working conditions. In November the Paniagua administration met with labor leaders in the health care sector to try to resolve wages and benefit related complaints. The Paniagua administration leaders also met with union leaders from the education sector to discuss their long standing grievances.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, 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 regulations prohibit probationary, apprentice, and management employees from union membership. The law does not prohibit temporary employees from joining a union, but they cannot join the same union as permanent workers.

According to the regulations, 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 time they may devote to union business on company time. The Labor Code requires employers to reinstate workers or compensate financially those whom companies have fired. It is illegal to fire workers for union activities, though reports from labor activists indicate that this is a common practice.

To become an official collective bargaining representative, a union must represent at least 20 workers. Representatives may participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams cannot exceed the size of union teams, and both sides are permitted to have attorneys and technical experts present as advisers.

Proposals for a strike require secret ballot approval of a majority of all workers in a company, whether union members or not; labor activists find the requirement to be onerous. A second vote must be taken, if petitioned by at least 20 percent of the workers. However, labor rights advocates complain that many workers are reluctant to participate even in secret ballots, due to fear of employer retaliation, particularly since a full list of workers who attend meetings in which such ballots are taken must be submitted to management. Strikes can only be called in defense of labor rights. Unions that employ workers in public services deemed essential by the Government are further restricted from striking.

In November the ILO's Committee of Freedom of Association issued a report in response to allegations of antiunion discrimination. It recommended that the Government enact and enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities.

The labor movement criticizes the amended Employment Promotion Law, which it asserts makes it easier for employers to dismiss employees and thereby to impede the right of workers to bargain collectively. There are no legal restrictions that prevent unions from negotiating for higher levels of worker protection than the baseline standards provided for by law.

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 allege that, in practice, few employers respected this provision. If workers reject an employer's proposed changes, the Ministry of Labor is required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances are upheld in full or in part, employers are 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.

In December the Paniagua administration established a national labor council to promote dialog among business, labor, government, and international organizations. The dialog focused on discussing reforms to legal provisions regarding dismissal policies and collective bargaining rights.

Although a conciliation and arbitration system exists to resolve management and labor disputes, union officials complain that their proportionate share of the costs of arbitration often exceeds their resources. In addition, union officials claim that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers on temporary, personal services contracts to prevent increases in the number of union members. Although the law restricts the number of temporary workers hired to 20 percent of a company's work force, worker rights advocates allege that this quota rarely is respected. Employers deny that they are biased against unions, and argue that the labor stability provisions of the legislation have made long-term commitments to workers too expensive.

Special regulations aimed at giving employers in export processing 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 have difficulty in unionizing, although worker rights advocates admit these zones are few in number and do not contribute substantively to labor's unionizing difficulties.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no reports of forced labor during the year. The law specifically prohibits forced or bonded labor by children. Forced labor previously

was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it seem to have addressed the problem. During the year, the Ministry of Energy and Mines reported that the number of registered dredging companies fell, while informal operations continued. NGO sources and the ILO reported in 1999 that mechanization largely has replaced manual labor, and the Ministry of Labor inspection programs helped deter illegal child labor in this industry. According to the ILO, PROMUDEH, and the Ministry of Labor, there were no reports of forced child labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child and Adolescent Code of 1992 governs child and adolescent labor practices. The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs to help support their families 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. Certain types of employment are prohibited, 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. The ILO and NGO's report that child labor remained a problem nationwide, and especially in the informal sector.

Human and labor rights groups criticized the modification of the Child and Adolescent code, passed in August, that maintained the current minimum age for work at 12 years old (with permission), and argued that it contradicts international guidelines on the minimum age of child workers.

The Constitution provides for compulsory, free education through secondary school. Nevertheless, largely because of widespread poverty, approximately one-third of all school-age children and adolescents work during daytime hours rather than attend classes, and only a few of them attend classes at night.

Many children are pressed to help support their families from a very early age by working in the informal economy, which escapes government supervision of wages and working conditions. Other children and adolescents work either in formally established enterprises, or as unpaid workers at home, or at times in the sex trade (see Section 5).

Adolescent workers must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents may only work a certain number of hours each day: 4 hours for ages 12 through 14, and 6 hours for ages 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the Child and Adolescent Code provisions are violated routinely, especially in the informal sector. Child and adolescent laborers work long hours in the agricultural sector. Many other children are at times reportedly employed in dangerous occupations or in high-risk environments, such as gold mining, garbage collection, loading and unloading produce in markets, and brick making, or work in stone quarries and fireworks factories, among others.

In recent years, government surveys have estimated the number of child and adolescent workers at anywhere from 500,000 to 1.9 million. A 1996 government study found that 8 percent of the work force is between the ages of 6 and 14 (see Section 5). Child and adolescent labor tends to be seasonal, with the highest survey statistics reported during school vacation periods.

There were two allegations of child labor in the informal gold mines of Madre de Dios department in during the year. The authorities investigated the incidents and intervened with the families involved.

The Constitution does not prohibit specifically forced or bonded labor by children, although there are laws which prohibit this practice (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal."

In March the Government raised the statutory minimum wage to \$117 (410 soles) a month, which is not considered sufficient to provide a decent standard of living for a worker and family. That year the Government estimated the poverty line to be about \$45 (157 soles) a month per person. According to some estimates, as much as half the work force earns the minimum wage or below.

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; however,

it continued to be a problem in practice. The labor code provides for a 48 hour work week for women. Labor advocates state that workers have been pressured to work longer hours to avoid dismissal.

While occupational health and safety standards exist, the Government lacks the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. The Ministry of Labor employs a force of 100 inspectors to carry out unannounced visits throughout the country. When firms are found to be in violation of the law, the Government sanctions them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. The worker does 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. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. In November 1999, the Government adopted legislation that criminalized alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimping. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment are enforced and could be used to sanction traffickers in persons. Available information suggests that trafficking in persons to, from, within, or through from the country is not a significant problem.

## SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multi-party, parliamentary democracy 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 comprises a prime minister, a cabinet, and a bicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In national elections held on March 6, Denzil Douglas of the ruling St. Kitts and Nevis Labour Party remained Prime Minister; his party won 8 of 11 seats in the legislature. The judiciary is independent; however, intimidation of witnesses in high-profile, drug-related cases is a problem.

Security forces consist of a small police force, which includes a 50-person Special Services Unit that receives some light infantry training, a coast guard, and a small defense force. The forces are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The mixed economy is based on sugar cane, tourism, and light industry. Most commercial enterprises are privately owned, but the sugar industry and 85 percent of arable land are owned by a state corporation. In 1998 and 1999, hurricanes caused an estimated \$450 million damage, affecting over 85 percent of the houses and buildings, greatly reduced sugar production, and caused significant losses in the tourism industry. However, during the year, construction, small manufacturing, and the services sector registered some improvement. Per capita gross domestic product remained about \$7,000 in 1999.

The Government generally respected citizens' human rights; however, there were problems in a few areas. Poor prison conditions, apparent intimidation of witnesses and jurors, government restrictions on opposition access to government-controlled media, and violence against women were the principal problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture or other forms of inhuman or degrading treatment or punishment, and the authorities observe this prohibition in practice. However, there were occasional allegations of excessive use of force by the police, particularly during the annual Carnival celebration or other special events. The

police force conducts its own internal investigation when complaints are made against members.

Prison conditions are poor. Prisoners suffer from severe overcrowding and poor food, and security is lax. These conditions have contributed to riots in the past, although none has occurred since 1994. The prison, built in 1840, was designed to accommodate 60 inmates but houses over 100 prisoners. A prison on Nevis houses 20 inmates. Female inmates are segregated from male prisoners; however, there are no separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects this provision 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 are permitted to visit detainees regularly.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, intimidation of witnesses and potential intimidation of jurors in high-profile, drug-related cases threatened this traditional independence. The Government is exploring the possibility of a program to protect witnesses, judges, and jurors through the Caribbean Community.

The court system comprises one 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 is 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 are observed. In the latter part of the year, approximately 29 persons were being held on "remand" (detention pending trial or further court action). The length of remand varies according to offense and charges; persons may be held for days, weeks, or months.

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 respect these prohibitions. 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, for the most part, the authorities respected these provisions in practice.

There are no daily newspapers; each of the major political parties publishes a weekly or biweekly newspaper. A third weekly newspaper is nonpartisan. The publications are free to criticize the Government and do so regularly and vigorously. International news publications are readily available.

The Government owns the only radio and television station on St. Kitts, and these media generally did not adequately publicize rallies and other events held by opposition parties. A Trinidadian company manages the station; however, the Government appoints three of its five board members. There is a religious television station and a privately owned radio station on Nevis.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Political parties organized demonstrations, rallies, and public meetings during the March election campaign without government interference.

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

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

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

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government by peaceful means, and citizens exercise this right in practice through periodic elections held on the basis of universal suffrage. A vigorous multi-party political system

exists, in which political parties are free to conduct their activities. All citizens 18 years of age and older may register and vote by secret ballot. Despite some irregularities, orderly general elections were held in March.

The Legislative Assembly has 11 elected seats; 8 for St. Kitts and 3 for Nevis. The Government holds 8 of the 11 seats; opposition parties hold the other 3 seats. In the March elections, Douglas' St. Kitts and Nevis Labour Party won all eight seats on St. Kitts; the People's Action Movement (PAM) lost the one seat it had held. The Concerned Citizens Movement won two of the three Nevis seats; the Nevis Reform Party won the remaining one. The island of Nevis has considerable self-government, with its own premier and legislature.

In accordance with its rights under the Constitution, the Nevis Island Assembly in 1996 initiated steps towards secession from the Federation, the most recent being a referendum in August 1998 that failed to secure the required two-thirds majority for secession. However, the matter of secession remained open, and in October the newly appointed opposition leader publicly stated his desire to have "two separate governments."

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the former opposition party PAM alleges widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be PAM supporters. PAM alleged that the ruling party dismissed or demoted many PAM supporters from their jobs in order to replace them with its own supporters. The Government acknowledged that it had withheld pension benefits from opposition members of Parliament voted out of office but asserted that it had paid pension benefits to those entitled to them.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties. There are 3 women in the Cabinet, 3 of 4 magistrates are women, the court registrar is female, and 7 of 20 permanent secretaries are female.

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

While there are no governmental restrictions, no local human rights groups have been formed. There were no requests for investigations or visits by international human rights groups.

*Section 5. Discrimination Based on Race, Sex, Religion, 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 respects these provisions in practice.

*Women.*—According to a government official, violence against women is a problem, but many women are reluctant to file complaints or pursue them in the courts. Despite this reluctance, there were publicly reported cases of both domestic violence and rape, and a few convictions. There is no legislation addressing domestic violence.

The role of women in society is not restricted by law but is circumscribed by culture and tradition. There is no overt societal discrimination against women in employment, although sectoral analyses suggest that women do not yet occupy as many senior positions as men. The Bureau of Women's Affairs, under the Ministry of Health and Women's Affairs, is active in promoting change in the areas of domestic violence, poverty, health, institutional mechanisms to advance the status of women, and leadership positions for women. Since 1997 the Bureau has also been active in training the police and school guidance counselors on issues of domestic violence, sexual crimes, and child abuse.

*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 is free and universal.

*People with Disabilities.*—Although there is no legislation to protect the disabled or to mandate accessibility for them, the Government and the Constitution prohibit discrimination in employment, education, and other state services.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all workers to form and belong to trade unions. The law permits the police, civil service, and other organizations to have associations that serve as unions. The major labor union, the St. Kitts Trades and Labour Union, is associated closely with the St. Kitts and Nevis Labour Party and is active in all sectors of the economy. There is

also a newly active teachers' union, a union representing dockworkers in the capital city, and two taxi drivers' associations.

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, are enforced by established practice and custom, but not by law. There were no major strikes during the year.

Unions are free to form federations or confederations and to affiliate with international organizations. The islands' unions maintain 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. The law prohibits antiunion discrimination but does not require employers found guilty of such action to rehire employees who were fired for union activities. However, the employer must pay lost wages and severance pay. There is no legislation governing the organization and representation of workers, and employers are not legally bound to recognize a union, but in practice employers do so if a majority of workers polled wish to organize. Collective bargaining takes place on a workplace-by-workplace basis, not industrywide. The Labor Commissioner mediates all types of disputes between labor and management on an ad hoc basis. However, in practice few disputes actually go to the Commissioner for resolution. If neither the Commissioner nor the Ministry of Labor are able to resolve the dispute, the law allows for a case to be brought before a civil court.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, and they do not occur in practice. While neither the Constitution nor the law specifically address bonded labor, it has not been a problem in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The 1966 Employment of Children Ordinance outlaws slavery, servitude, and forced labor, and prescribes the minimum legal working age, which is 14 years. The Labor Ministry relies heavily on school truant officers and the community affairs division to monitor compliance, which they do effectively. The law mandates compulsory education up to the age of 16. Although the law does not specifically address bonded labor, it has not been a problem in practice (see Section 6.c.).

*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 minimum wage varies from \$56.18 (EC\$ 150) per week for full-time domestic workers to \$74.91 (EC\$ 200) per week for skilled workers. These provide a barely adequate living for a wage earner and family; many workers supplement wages by keeping small animals such as goats and chickens. The Labor Commission undertakes regular wage inspections and special investigations when it receives complaints; it requires employers found in violation to pay back wages. The Government provides unemployment benefits to workers who lose their jobs temporarily or permanently.

The law provides for a 40- to 44-hour workweek, but the common practice is 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 are 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 have 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 are no laws that specifically address trafficking in persons.

An "economic citizenship" program allows foreign investors to purchase passports through loosely monitored procedures involving cash inflows ranging from \$200,000 (EC\$540,000) to \$285,000 (EC\$770,000). This program reportedly has 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 force them to work under conditions similar to bonded labor until their debt is repaid.

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## SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The Government is composed of a prime minister, a cabinet,

and a bicameral legislative assembly. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In general elections in 1997, the Saint Lucia Labour Party (SLP) defeated the incumbent United Workers Party (UWP), gaining 16 of 17 seats in the House of Assembly. Dr. Kenny Anthony of the SLP assumed the prime ministership from the UWP's Dr. Vaughan Lewis. 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 has some paramilitary training) and a coast guard unit. They are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The economy is based on tourism and on the export of bananas, which represent the principal sources of foreign exchange earnings. Saint Lucia is diversifying its economy into other types of agriculture, light manufacturing, and construction. Unemployment, estimated at 21 percent, remains a source of potential instability. Per capita gross domestic product for 1999 was provisionally estimated at \$3,648.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The major problems included an extrajudicial killing by police; occasional credible allegations of physical abuse of suspects or prisoners by the police; very poor prison conditions; some censorship; long delays in trials; and recurring domestic violence against women. Child neglect and abuse are problems. On December 31, a deadly attack on parishioners in a Catholic church, although believed to be an isolated act by disturbed persons, raised concerns about religious tolerance.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, there was one extrajudicial killing by police.

On November 19, police shot and killed an escaped prisoner, Alfred Harding, who was jailed on charges of armed robbery and attempted murder. Harding, a Barbadian national, had escaped from prison in that country and also escaped from prison in Castries in July 1999. The police reported that he was killed while trying to flee, armed with an ice pick; some witnesses contradicted police reports and said that the police shot the prisoner after recapture, while he was subdued and held on the ground. Human rights groups criticized the police action as an example of the use of excessive force by police. The Minister for Home Affairs stated that an international group would be invited to conduct an impartial investigation; results still were pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture, and there were no reports of such abuse. However, human rights groups assert that the police occasionally use excessive force.

In July 1999, when the police recaptured escaped prisoner Alfred Harding (see Section 1.a.), they detained him in chains and shackles and kept him continuously in solitary confinement amid the general prison population. He filed a court case asserting that his rights were violated, but he was held in this manner until his human rights case was decided. In August the High Court awarded him \$9,250 (EC\$25,000) in compensation, stating that prison authorities were wrong in keeping him in shackles and solitary confinement for so long.

Prison conditions are very poor. The island's only prison, built in the 1800's to house a maximum of 101 prisoners, was subject to severe overcrowding with over 340 inmates. The prison's conditions, overcrowding, and lengthy trial delays led to a prison riot in June 1997; prisoners set fires that destroyed over half of the antiquated prison. The inmates asserted that the fires were part of a protest for improved prison conditions. Following the fires, the authorities transferred about 250 inmates to a factory shell outside the capital and stationed the paramilitary Special Services Unit at the prison. The prison since has been repaired, the majority of prisoners have been returned to the prison, and the Special Services Unit has ceased guarding the prison.

Following the riots, the Government invited Penal Reform International (PRI), a London-based nongovernmental organization, to study the prison and make recommendations. Its recommendations included the release of prisoners awaiting trial for minor offenses and the introduction of noncustodial alternatives as a sentencing option. As a result of the PRI report, the authorities selected a new superintendent of prisons who took over in February 1998, established a permanent Complaints Board composed of prominent citizens to meet every month to hear prisoners' com-

plaints, hired 24 new prison officials, and made some limited improvements to the facility. Despite these measures, inmates made another attempt to burn down the main prison facility in September 1998 but caused only limited damage. According to the superintendent, both the 1997 and the 1998 incidents of unrest occurred prior to the start of a new session of the High Court when prisoners on "remand" (detention pending trial or further court action) discovered that their cases were not on the published list of cases to be heard. At any given time, there may be 100 or more prisoners on remand who have been denied bail and are awaiting trial.

The Government started the groundwork for a new \$17 million (EC\$50 million) prison in the more remote eastern part of the island in 1998. It was scheduled for completion during the year, but progress was delayed and officials expect it to be completed in 2001.

The Government maintains a separate facility for women and in September there were 11 female prisoners. Conditions in the women's facility are somewhat better than those at the men's prison. Detained juveniles are held in the same facility as women.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Government adheres to the constitutional provisions that prohibit arbitrary arrest or imprisonment and require a court hearing within 72 hours after detention. However, the authorities frequently have held prisoners for years on remand after charging them (there is no constitutional requirement for a speedy trial). At the time of the 1997 prison riot, about 160 of the prisoners were on remand. For example, two foreign nationals, a Ghanaian and a Nigerian, have been held on remand since 1996. These individuals are detained for immigration violations, pending resolution of who is to pay the expense of their deportations.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

There are two levels of courts: 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) in value and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases can be appealed to the Eastern Caribbean Court of Appeal. Cases 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 observe both constitutional and statutory requirements for fair public trials.

However, the court system continued to face a serious backlog of cases. In the latter part of 1998, the magistrate's courts had a backlog of over 6,000 cases. Following an official study, in July 1999, the Government hired a new director of public prosecutions and provide him an assistant to attempt to speed up the trial process and reduce the backlog. His work and the flow of cases through the court system continue to be hampered by a shortage of magistrates and resources, and the backlog likely has not diminished. Previously, the Government had invited a team of justices from Australia to conduct a study and to make recommendations for reducing the backlog. The team issued a report (the Bauer report) in 1998. At year's end, the Government still was reviewing the report's recommendations.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

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

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, some censorship is practiced. In September a representative of a small foreign publishing house arrived in the country from Martinique with a number of books. Customs authorities seized 57 of them under a law that bans certain books. The authorities returned 37 of the books but kept the others for further review. The publisher questioned the banning and confiscation as a violation of freedom of speech. A number of the books seized were on religion or religious themes (see Section 2.c.).

There are five privately owned newspapers, two privately owned radio stations, and one partially government-funded radio station. They carry a wide spectrum of political opinion and are often critical of the Government. The radio stations have discussion and call-in programs that allow persons to express their views. The two local television stations also are owned privately and cover a wide range of views. In addition there is subscription cable television service, which provides programming from a variety of sources.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The law requires permits for public meetings and demonstrations if they are to be held in public places, such as streets, sidewalks, or parks. The police routinely grant such permits; the rare refusal generally stems from the failure of organizers to request the permit in a timely manner, normally 48 hours before the event.

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

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. However, a number of the books customs authorities seized in September were on religion or religious themes, including titles such as *The Egyptian Book of the Dead*, *The Greater Key of Solomon*, *The Lost Books of the Bible*, and *The Ancient Mysteries of Melchizedek* (see Section 2.a.).

On December 31, two men alleged to be members of the Rastafarian movement attacked a Sunday Mass in a Catholic Church. They killed a nun, set the priest on fire, and wounded 12 other persons. At year's end, the authorities brought charges of murder and arson against the two men, and the investigation continued. Rastafarian leaders criticized the attack, and Archdiocese representatives criticized what they termed "an atmosphere of intolerance" and a "callous disrespect for authority" in the country. The Government criticized the attack as the work of mentally disturbed persons who underscored the plight of "impoverished and marginalized youth" alienated from societal norms.

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

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of the forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government and exercised that right in 1997 when the SLP defeated the UWP, which had governed with only one interruption since 1964. The SLP won 16 of 17 seats, campaigning on a platform of job creation and economic diversification and appealing explicitly to women and younger voters. In response to concerns about the size of the SLP's parliamentary majority, Prime Minister Anthony publicly emphasized that the Government would make efforts to reach out to the opposition to ensure that the country's democratic traditions were not undermined by the small size of the parliamentary opposition. The 1996 merger of smaller parties—the Concerned Citizens' Movement, the Saint Lucia Freedom Party, and the Citizens' Democratic Party—into the SLP left the country with only two major political parties. The Governor General, who had been affiliated with the UWP, stepped down following the elections. He was replaced by Pearlette Louisy.

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. Two members of the Senate are independent, appointed by the Governor General.

There are no legal impediments to participation by women and minorities in government and politics; however, they are underrepresented. Two of the 13 members of the Cabinet are women, as is the Governor General.

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

The Government generally does not restrict international or nongovernmental investigations of alleged violations of human rights. In some cases it has requested international organizations to investigate possible abuses.

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

The Constitution does not address discrimination specifically; however, government policy is nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement. There are no legal restrictions on the role of women or minorities.

*Women.*—There is increased awareness of the seriousness of violence against women. The Government does not prosecute crimes of violence against women unless the victim presses charges. If the victim chooses for any reason not to press charges, the Government cannot bring a case. Charges must be brought under the ordinary Civil Code. In 1997 the Government established a family court to hear cases of domestic violence and crimes against women and children.

The police force conducts some training for police officers responsible for investigating rape and other crimes against women, but there is no special unit that handles crimes against women. Police and courts enforce laws to protect women against abuse, although police are hesitant to intervene in domestic disputes, and many victims are reluctant to report cases of domestic violence and rape or to press charges.

The 1994 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 would no longer have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for women was established in 1988 in Castries, the capital; a second opened in the southern town of Vieux Fort in January 1999. These centers monitor cases of physical and emotional abuse and help clients deal with such problems as incest, alcohol and drug abuse, homelessness, nonpayment of child support, custody, and visitation rights. The Crisis Center has publicized the plight of battered women and has protested the rare deaths of women who were victims of domestic violence. The organizers continued to work to establish a shelter for battered women and homeless girls; however, no progress had been made at year's end. The Crisis Center reports that the number of new cases declined since the establishment of the family court because women can seek help in two places. Some secondary schools address the problems of sexual harassment and battering in their curriculum topics.

Women's affairs come under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Women. The Minister is responsible for protecting women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

*Children.*—Since independence, successive governments have given high priority to improving educational opportunities and health care for the nation's children. Education is free and compulsory from age 5 through 15. However, only about one-third of primary school children continue on to secondary schools, and the drop-out rate from primary to secondary school is higher for boys than for girls. Government clinics provide prenatal care, immunization, child health care, and health education services throughout the island.

A broad legal framework exists for the protection of children through the Criminal Code, the Children and Young Persons Act, the Family Court Act, the Domestic Violence Act, and the Attachment of Earnings Act. Although the Government adopted a national plan of action in November 1991 for the survival, protection, and development of children, it still has not fulfilled this program by implementing effective programs. The Saint Lucia Crisis Center reported that the incidence of child abuse remains high. There were reports of abandoned children at times roaming the streets with no organized, fully functioning safety net or adequate supporting institutions to assist them. There are no specific laws enacted to cover foster care, adoptions, and child welfare social services.

*People with Disabilities.*—No specific legislation protects the rights of the disabled, nor mandates provision of access to buildings or government services for them. There is no rehabilitation facility for the physically disabled, although the Health Ministry operates a community-based rehabilitation program in residents' homes. There are schools for the deaf and for the blind up to the secondary level. There is also a school for the mentally retarded.

*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 are unionized; about 20 percent of the total work force is unionized. Unions are independent of government and are free to choose their own representatives in often vigorously contested elections. There are no restrictions

on the formation of national labor federations. In 1994 several of the major unions formed an umbrella grouping called the Industrial Solidarity Pact.

Strikes in both the public and private sectors are legal, but there are many avenues through collective bargaining agreements and government procedures that may preclude a strike. The law prohibits members of the police and fire departments from striking. Other “essential services” workers—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days’ notice before striking.

Unions are free to affiliate with international organizations, and some have done so.

*b. The Right to Organize and Bargain Collectively.*—On January 11, the Registration Status and Recognition of Trade Unions and Employer Organizations Act entered into effect. Unions have the legal right to engage in collective bargaining, and they fully exercise this right. Although union representatives have reported attempts by the Government and other employers to undermine this process, the new law is viewed widely as pronounion, and it has resulted in increased organizational activity by unions.

The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints. It also requires that employers reinstate workers fired for union activities.

Labor law is applicable in the export processing zones (EPZ’s), and there are no administrative or legal impediments to union organizing or collective bargaining in those zones. However, in practice many firms resist union efforts to organize in the EPZ’s, but there has been some progress because of the new law.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is 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.*—While the Children and Young Persons Act permits a minimum legal working age of 14 years, education legally is required through age 15. Ministry of Labor officials are responsible for enforcing the law. There were no reports of violations of child labor laws. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Wages Regulations (Clerks) Orders, in effect since 1985, set out minimum wage rates only for clerks. These office workers receive a legislated minimum wage of about \$300 (EC\$800) per month. The minimum wage is not sufficient to provide a decent standard of living for a worker and family, but some categories of workers receive more than the legal minimum for clerks, which is used only as a guide for setting pay for other professions.

There is no legislated workweek, although the common practice is to work 40 hours in 5 days. Special legislation covers hours that shop assistants, agricultural workers, domestics, and young people in industrial establishments may work.

Occupational health and safety regulations are relatively well developed. The Labor Ministry periodically inspects health and safety conditions at places of employment under the Employees’ Occupational Safety and Health Act of 1985. The Ministry enforces the act through threat of closure of the business if it discovers violations and the violator does not correct them. Workers are free to leave a dangerous workplace situation without jeopardy to continued employment.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.

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## 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. During the spring, divisive general strikes were settled only because Prime Minister Sir James F. Mitchell, whose New Democratic Party (NDP) had won an unprecedented fourth term in June 1998 by a slim margin, agreed to resign, with elections to be held by March 31, 2001. On October 27, Mitchell resigned, and Arnhim Eustace, an NDP parliamentarian, replaced him. 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 (SSU) with some paramilitary train-

ing, that is often accused of using excessive force. The force is controlled by and responsive to the Government, but police continued to commit some human rights abuses.

St. Vincent has a market-based economy. Much of the labor force is engaged in agriculture. Bananas are the leading export and a major source of foreign exchange earnings. However, the banana industry is declining, and the growing tourism sector is becoming the leading earner of foreign exchange. Unemployment is estimated to be 35 percent, and the 1999 per capita gross domestic product was approximately \$2,550.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The police SSU was accused of an extrajudicial killing. Other principal human rights problems continued to include occasional 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. Political and Other Extrajudicial Killing.*—There were no reports of political killings.

In March the police SSU shot and killed David Browne as they were taking him into custody for building a shack on the grounds of a secondary school. The police said he sustained an accidental but fatal shot to the temple when he resisted arrest. Human rights activists called for an inquiry and claimed that the police SSU used excessive and injudicious force leading to the death.

On December 14, 1999, a police antidrug patrol shot and killed Junior Harry, who they said was fleeing while the patrol conducted a search for narcotics in buildings near the town of Barrouallie. A police spokesman said that Harry was armed with a shotgun. Although the authorities planned to hold an inquest to establish whether police used excessive force, there was no information as to the results of any such inquiry.

*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 have noted that a high percentage of convictions are based on confessions. One human rights group believes 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.

There is no independent review board to monitor police activity and to hear public complaints about police misconduct. Human rights advocates recommend such a board to protect the rights of citizens who complain about police misconduct.

Prison conditions are poor. Prison buildings are antiquated and overcrowded, with one holding an average of 300 inmates in a building designed for 75, which results in serious health and safety problems. An inmate who wishes to speak with his lawyer must do so by written correspondence, and the authorities sometimes monitor and censor such correspondence.

In July 1999, prisoners rioted and seized control of the prison, protesting poor conditions and treatment. The Government acceded to a number of the prisoners' demands; however, conditions did not change significantly. In the spring, prisoners again demonstrated, and the Government appointed a former SSU commander as the new Superintendent of Prisons. Local human rights activists have acknowledged that he has tried to improve internal communications and training for prison personnel. However, the Government has not implemented any of the recommendations made by a Commission of Inquiry following the July-August 1999 disturbances.

In August identified prisoners whipped another prisoner, burned him with acid, and cut a piece of his ear off with a knife. The assaulted inmate asserted that this action was carried out as punishment when he had not supplied them with drugs after he had been released earlier from jail. Prison officials asserted that police failed to respond to arrest the inmates who had tortured and mutilated this prisoner.

Prison officials expressed frustration with the lack of resources, proper training, personnel, and progress in securing a new facility. The jail is in the center of the capital city with low walls that are accessible to passers-by. Prison guards are known at times to collaborate with prisoners in corrupt and illegal practices. Some guards have been disciplined for engaging in sexual acts with inmates. Reportedly, guards also supply drugs and other contraband or stand by while rough, abusive,

or inhuman prison punishment is meted out either by fellow prisoners or other guards.

There is a separate section for female inmates in the prison.

Conditions are inadequate for juvenile offenders. There is a small facility for delinquent boys; however, it is not financed by the Government and depends upon donations. As a result, it is in disrepair and only houses a small number of boys. Youngsters may be charged and convicted as criminals from the age of 8. In such cases, youngsters may then be jailed with older criminals. Although separate legal statutes exist for youthful offenders, there are no separate magistrates, prosecutors, or procedures to handle such cases.

The Government permits prison visits by independent human rights monitors.

*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. Although there are only two official magistrates, the registrar of the High Court and the presiding judge of the family court effectively serve as magistrates when called upon to do so. While this practice reduced the backlog, complaints continue regarding police practices in bringing cases to court. Some defense attorneys claim that this has caused 6- to 12-month delays in preliminary inquiries for serious crimes.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent and impartial court, and the judiciary is independent 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 are three magistrates, as well as one magistrate who serves only the family court.

The Constitution provides for public trials. The court appoints attorneys for indigent defendants only when the defendant is charged with a capital offense. Defendants are presumed innocent until proven guilty and may appeal verdicts and penalties. There is a large backlog of pending cases. In January a fire destroyed offices with records in the magistrates' court. The family court handled some cases, but the backlog increased. The court reopened in September with 1 day per week set aside to handle an increasing workload of drug-related cases. The court docket may average 55–60 cases a day, when reasonably only 5 to 7 may be heard, adjudicated, or disposed.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens, and there were no reports of such abuses.

#### *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 respects this right in practice.

There are two major newspapers and numerous smaller, partisan publications; all are privately owned, and most are openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press. However, individual journalists believe that government advertising, a significant source of revenue, sometimes is withheld from newspapers that publish articles that are less than favorable to the Government.

The lone television station in St. Vincent is privately owned and operates without government interference. Satellite dishes are popular among those who can afford them. There is also a cable system with mainly North American programming that has over 300 subscribers. The Government controls programming for the government-owned radio station.

The Government does not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

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

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government through regularly scheduled free and fair elections. St. Vincent has a long history of multiparty parliamentary democracy. During the June 1998 election, the ruling New Democratic Party won a slim 1-seat majority (8 of 15) in Parliament, despite losing the popular vote by a 55 to 45 percent margin to the opposition Unity Labour Party (ULP). Calling this outcome an "overt manifestation of rejection by the public" of Prime Minister Mitchell's Government, the ULP made claims of election fraud and demanded new elections.

The Prime Minister refused the ULP demand and instead proposed a constitutional review to consider possible amendments, such as a provision for proportional representation. Lingering dissatisfaction led to thousands of persons participating in rallies and strikes in April and May calling for the Prime Minister's resignation. A rally by the Organization in Defense of Democracy, comprised of leading private and public sector unions, said new elections should be held immediately and threatened "a total shutdown of the country" on May 3. After mediation by regional figures, the Prime Minister and his ruling NDP signed a six-point agreement known as the Grand Beach Accord, which confirmed that the Prime Minister would resign by January 2001 and call early elections before March 31, 2001. On October 27, Mitchell resigned and was replaced by Arnhim Eustace, an NDP parliamentarian. In November leaders of the three political parties signed a "Code of Conduct" intended to govern the campaign period. It includes a pledge of equal time on local radio and other electronic media and an agreement not to incite or encourage violence.

There are no legal impediments to women's full participation in politics or government; however, they are underrepresented. There is only one woman in Parliament, as a member of the opposition.

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

Opposition political groups and the Vincentian press often comment on human rights matters of local concern. The St. Vincent and the Grenadines Human Rights Association (SVGHRA) monitors government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. The Government generally is responsive to public and private inquiries about its human rights practices.

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

The Constitution provides for equal treatment under the law regardless of race, sex, or religion, and the Government adheres to this provision.

*Women.*—Violence against women, particularly domestic violence, remains a major problem. The Government took legislative steps to address this problem through the Domestic Violence/Matrimonial Proceedings Act (1994) and the more accessible Domestic Violence Summary Proceedings Act (1995). Both laws 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. Since passage of the laws, the SVGHRA has conducted numerous seminars and workshops throughout the country to familiarize citizens with their rights under these acts. Increasing numbers of women are coming forward with domestic violence complaints.

Depending on the magnitude of the offense and the age of the victim, the punishment for rape is generally 10 or more years in prison.

A 1995 amendment to the Child Support Law allows for payments ordered by the courts, even when notice of an appeal has been filed. Previously, fathers who had been ordered to pay child support could appeal decisions and not pay while the appeal was being heard. This resulted in a huge backlog of appeal cases and effectively reduced the number of mothers and children receiving support payments. There is a family court in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there is only one bailiff to service all the country, summonses often are not served on time for cases to be heard as scheduled in court.

The Ministry of Education, Women's Affairs, and Culture has a women's desk that assists 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, a social services agency established by the Catholic Church in 1989 and staffed by four trained counselors and three foreign volunteers, provides counseling and therapy services.

*Children.*—Education is not compulsory, but the Government states that it investigates cases in which children are withdrawn from school before the age of 16. Although the Government has played a more prominent role in legislating health and welfare standards since independence, the infant mortality rate is still very high. One underlying cause is the large number of children born to teenage mothers.

The Domestic Violence Summary Proceedings Act provides a limited legal framework for the protection of children. Nevertheless, reports of child abuse remain high and are on the increase. The Social Welfare Office is the government agency responsible for monitoring and protecting the welfare of children. The police are the enforcement arm; the Social Welfare Office refers all reports of child abuse to the police for action.

*People with Disabilities.*—There is no specific legislation addressing persons with disabilities, and the circumstances for disabled individuals are generally difficult. Most severely disabled persons rarely leave their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supports a school for the disabled which has two branches. A separate, small rehabilitation center treats about five persons daily.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides citizens the right to form unions and to organize employees, and the Trade Unions and Trade Disputes Act allows the right to strike. Employers often ignore the constitutional provisions that provide for union rights, and claim that they have a constitutional right not to recognize a trade union. However, some employers seek a good industrial relations environment and cooperate with trade unions.

In April and May, thousands of persons, including members of leading private and public sector unions, participated in rallies and strikes calling for the Prime Minister's resignation (see Section 3). Other than these, there were no major strikes during the year.

St. Vincent and the Grenadines joined the International Labor Organization in 1997 and assumed all its obligations for enforcement of labor standards.

Unions have the right to affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—There are no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. Some companies offer packages of benefits with terms of employment better than, or comparable to, what a union normally can obtain through negotiations. The law prohibits antiunion discrimination by employers. Generally effective mechanisms exist for resolving complaints. The authorities may order employers found guilty of antiunion discrimination for firing workers without cause (including for participation in union activities) to reinstate the workers or give them severance pay.

According to press reports in August and September, seven workers at the East Caribbean Group of Companies (ECGC—an agricultural manufacturing concern)—six of whom were executive members of a newly formed, government-registered ECGC Workers Union—were fired for “undisclosed reasons” following a 2-day sick-out. Shortly thereafter, Labor Minister Jerry Scott intervened in an attempt to resolve the matter, but the ECGC board refused to reinstate the workers. Instead, they provided fired workers with a severance package that included a statement that these workers had conspired to close down the company.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is not known to occur. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum working age at 16 years of age, although a worker must be 18 years of age to receive a national insurance card. The labor inspection office of the Ministry of Labor monitors and enforces this provision, and employers generally respect it in practice. The age of leaving school at the primary level is 15 years; when these pupils leave school, they usually are absorbed into the labor market disguised as apprentices. There is no known child labor except for children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The law sets minimum wages, which were last promulgated in 1989. 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 wage for workers provided shelter is \$0.82

(EC\$2.25) per hour; skilled industrial workers earn \$7.36 (EC\$20) per day, and unskilled workers earn \$3.68 (EC\$10) per day. In many sectors the minimum wage is not sufficient to provide a decent standard of living for a worker and family, but most workers earn more than the minimum. The Wages Council, according to law, should meet every 2 years to review the minimum wage, but it has not met since 1989.

There is no legislation concerning the length of the workweek; however, the general practice is to work 40 hours in 5 days. The law provides workers a minimum annual vacation of 2 weeks.

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 only factories, but enforcement of these regulations is ineffective. Workers enjoy a reasonably safe working environment; however, the trade unions have dealt with some violations relating to safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual deficiency by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. It was not clear under present legislation whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

*f. Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.

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## SURINAME

After over a decade of predominantly military rule, Suriname installed a freely elected Parliament and inaugurated a democratically chosen president in 1991. After free and fair elections in May, the new 51-member National Assembly elected Ronald Venetiaan of the National Party of Suriname (NPS) as President in August with the necessary two-thirds majority required by the Constitution; he replaced Jules Wijdenbosch of the National Democratic Party (NDP). Venetiaan had previously served as President in 1991–96. The Constitution provides for an independent judiciary, and previous disputes over appointees by the former president were alleviated when the appointees in question resigned from the judiciary; by year's end, the judiciary appeared to be acting independently.

The armed forces are responsible for national security and border and immigration control; they are under the control of the civilian Minister of Defense. Civilian police bear primary responsibility for the maintenance of law and order; they report to the Ministry of Justice and Police. The first Venetiaan Government had reformed the military in 1995–96 by purging military officers and supporters of former dictator Desi Bouterse, who ruled the country in the 1980's. Although in the May elections Bouterse's party won 10 seats in the National Assembly, 1 of which he occupies, the party's influence within the military has declined steadily. Members of the security forces continue to commit some human rights abuses.

The economy depends heavily on the export of bauxite derivatives. Unregulated gold mining is an increasingly important economic activity that highlights a lack of land rights for indigenous and tribal people, and it has a serious environmental impact. The Government and state-owned companies employ over half the working population. Overall economic conditions deteriorated during the year, and estimated gross domestic product declined by approximately 4 percent. The inflation rate was 82 percent, compared with 113 percent in 1999. Per capita annual income was about \$1,000.

The Government generally respected the human rights of its citizens; however, serious problems still remain in some areas. Police mistreat detainees, particularly during arrests; guards abuse prisoners; and local detention facilities remain overcrowded. The judiciary suffers from ineffectiveness and a huge case backlog. There was some harassment and media self-censorship, and societal discrimination against women and indigenous and tribal people persists. Violence against women and trafficking in women and girls are problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

While there have been no recent reports of political killings, the Government has not addressed past abuses, and they continue to be a focus of concern. The authorities have not taken action against prison guards who allegedly beat a prisoner to death in 1993. Late in the year, the Government began an investigation into the December 1982 executions by the Bouterse regime of 15 opposition leaders; there has yet to be an investigation into the 1986 massacre of civilians at the village of Moiwana.

In December 1997, the Wijdenbosch administration appointed a "committee to establish the framework for a commission to investigate past human rights abuses." Human rights groups, which had been pressing since 1995 for an independent human rights commission to investigate violations committed during the 1980's, neither were informed nor consulted prior to the establishment of the committee. Moreover, the chairman of the committee was reportedly a member of Bouterse's team of legal advisers; his appointment raised questions regarding the objectivity of the group's work. Although the committee's report was presented to the former President in September 1999, the Government did not release its contents or recommendations. In view of the human rights record of the Bouterse regime, many of whose members participated in the Wijdenbosch Government, human rights organizations remained concerned about the potential for a deterioration of civil liberties.

After the elections, there were calls for the new Government to investigate the December 1982 murders before the 18-year statute of limitations expired in December. In October the Court of Justice began hearings on the murders in response to a request from relatives of the victims. Bouterse's lawyer sought to postpone the hearings, but the court denied his request. The court heard testimony from the victims' relatives, human rights activists, and the prosecutor's office, which had not yet made any investigation into the killings. Previously, Bouterse himself had requested an investigation, after the victims' relatives asked a Dutch court to prosecute him in that country. Following an order from the Court of Justice, an examining judge called for a full investigation into the 1982 murders, including the actions of 36 suspects.

*b. Disappearance.*—There were no reports of politically motivated disappearances. However, the new Government has yet to take any action to investigate allegations of some disappearances that occurred under previous regimes.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman treatment or punishment, but human rights groups continue to express concern about official mistreatment and have documented cases of police mistreatment of detainees, particularly during arrests, and guard abuse of prisoners.

Prison conditions are poor. There are three state prisons and several detention facilities at police stations, where arrestees are detained until they appear before a judge for trial. Human rights activists are concerned about conditions in the prisons and especially about conditions in local detention facilities. They report that the jails are overcrowded, that guards mistreat prisoners, and that medical care and living conditions are inadequate. Police officers, who are not trained in prison work, serve as the jailers at local detention facilities, a situation that human rights groups assert contributes to the abuses.

Women's jail and prison facilities and conditions are, in general, better than the men's facilities and conditions. There is a wing of an adult prison for boys under age 18 who have committed serious crimes. Juvenile facilities for boys between the ages of 11 and 18 within the adult prison were adequate; educational and recreational facilities were provided.

In February 1999, the human rights group Moiwana '86 issued a report that accused prison officials at two of the federal prisons of using electrical shocks to discipline prisoners. The report further asserted that different ethnic groups receive different forms and degrees of punishments. Prison officials denied the accusations, and the Government took no investigative action. Moiwana '86 did not pursue the issue further.

The completion of a new prison and renovation of existing jails have reduced somewhat the problems and improved overall health and safety conditions. However, the older jails remain seriously overcrowded, with as many as four times the number of detainees for which they were designed. In addition these older prisons are unsanitary. At police stations, guards allow detainees no exercise and only rarely permit them to leave their cells. Detainees and human rights groups also complain about inadequate prison meals, although families are permitted and encouraged to provide food to incarcerated relatives. Local detention facilities remain overcrowded.

Since 1996 Moiwana '86 has monitored the condition of prisoners. Representatives of the group report that in general they have access to prisoners and receive cooperation from prison officials on routine matters. Moiwana '86 and the police cooperated to develop a detention officer training program for police guards working at the local detention facilities. The program consists of lectures given at the state prison to both guards and prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the authorities generally respect these provisions in practice. However, delays have caused prisoners who appeal their sentences to remain in prison until a ruling is reached on their appeal, even if they have served the full term of their original sentence. Lawyers have filed complaints, but the problem has not been resolved.

The law provides that the police may detain for investigation for up to 14 days a person suspected of committing a crime for which the sentence is longer than 4 years. During the 14-day period, the law also permits incommunicado detention, which must be authorized by an assistant district attorney or a police inspector. Within the 14-day period, the police must bring the accused before a prosecutor to be charged formally. If additional time is needed to investigate the charge, a prosecutor may authorize the police to detain the suspect for an additional 30 days. Upon the expiration of the initial 44 days, a judge of instruction may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is tried. The judge of instruction has the power to authorize release on bail, but that power is used rarely, if ever.

Pretrial detainees, who constitute a large percentage of inmates, routinely are held without being brought before a judge. They often are held in overcrowded detention cells at local police stations. Of those held in police custody or detention cells, a steadily growing number already had been convicted but not yet placed in prisons.

The military police continued to observe the requirement to hand over to the civil police civilians arrested for committing a crime in their presence. The military police continued to maintain responsibility for control of the country's borders and airports, but it no longer investigated civilian crimes.

The Constitution does not prohibit specifically forced exile; however, it is not practiced.

*e. Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, an ongoing dispute between the previously sitting judges and a new slate appointed by the former Government severely damaged the concept of an independent judiciary. However, the change in government led to the resignations of the disputed judges. The new Government appointed an acting president of the Court of Justice and named the Solicitor General to act also as Attorney General. As a result of the conflict, the effectiveness of the civilian and military courts still was limited in practice, but at year's end, the judiciary appeared to be acting independently.

The judicial system consists of three lower courts and an appeals court, which is called the Court of Justice; there is no Supreme Court. In July 1998, President Wijdenbosch named a new President of the Court of Justice and Prosecutor General without consulting with, and over the objections of, the sitting justices. Most legal authorities interpret the Constitution to require that consultation, and the members of the court refused to recognize the named President of the court or Prosecutor General. In spite of the continued objections, President Wijdenbosch named additional justices without consultation in December 1998. In May 1999, the appointed President of the Court of Justice first swore in himself, and then he swore in the new justices. With the change in Government, the President of the Court and other disputed judges resigned. The 1987 Constitution calls for the establishment of an independent constitutional court. Although the previous Government did not take any steps to set up such a court, at year's end the Venetiaan Government was assembling a group of judges to sit on the court.

The Constitution provides for the right to a fair public trial in which defendants have the right to counsel if needed. The courts assign lawyers in private practice to defend indigent prisoners and pays lawyers from public funds. However, the court-assigned lawyers usually only appear at the trial, if they appear at all. The courts must, and in practice do, free a detainee who is not tried within the 164-day period. In one instance, a court levied a fine against the Government for failing to release detainees as directed by the court. Trials are before a single judge, with the right of appeal. Due to the conflict over the legitimacy of the president of the Court and the justices, there is a large backlog in the judicial system.

Military personnel generally are not subject to civilian criminal law. A soldier 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 provides for the right to privacy. The law requires warrants for searches, which are issued by quasi-judicial officers who supervise criminal investigations. The police obtain them in the great majority of investigations. There have been complaints of surveillance of human rights workers by members of the military police and the division of central intelligence. There is 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 respects these rights; however, in practice there were reports of intimidation and harassment.

The parliamentary and extraparliamentary opposition criticize the Government freely. Some media members continue to practice some self-censorship because of the history of intimidation and reprisals by certain elements of the former military leadership.

The Wijdenbosch Government publicly reprimanded radio stations and newspapers for their negative coverage of protest demonstrations that took place in May 1999. Although the Government threatened to censor the press, it ultimately took no action, and there continued to be reports unfavorable to the Government.

In April one of the two daily newspapers, *De West*, was firebombed one night. At year's end, the incident remained under investigation.

On July 24, a group of Bouterse supporters harassed and attempted to beat a journalist outside the National Assembly. The journalist was known to be critical of Bouterse, and the attack took place the first day Bouterse occupied his new seat in the Assembly. The police intervened, but the Bouterse supporters threatened to find the journalist anywhere in the country.

The two daily newspapers, five television stations, and most of the radio stations are owned privately. Two television stations and two radio stations are owned publicly. Four companies provide cable television, which includes international channels. Two companies, one private and one public, offer unrestricted access to electronic media.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. However, in response to a series of public demonstrations in May 1999, the Government announced that it intended to begin enforcing a 1930's law requiring a permit to hold a public demonstration or gathering. After the announcement, in late July 1999, the authorities detained two opposition leaders for demonstrating without a permit but quickly released them. Subsequent public marches were allowed to proceed without permits.

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

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

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens may change their residence and workplaces freely and may travel abroad as they wish. Political dissidents who emigrated to the Netherlands and elsewhere during the years of military rule are welcome to return. Few of them have chosen to do so, generally for economic reasons. Citizenship is not revoked for political reasons.

Although it is possible for persons to be granted refugee status under special circumstances, there are no provisions in the law for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides for this right, but in the past the military prevented its effective exercise. Although the military twice has transferred power to elected civilian governments following coups, 2000 marked the second time since independence from the Netherlands in 1975 that one elected government succeeded another in accordance with constitutional provisions. The Government is still in the process of institutionalizing democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the citizens and provides for the right to change the government through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects the President by a two-thirds 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 Constitution provides for the organization and functioning of political parties. Many parties and political coalitions are represented in the National Assembly. After the May elections, President Venetiaan formed a cabinet from members of the New Front coalition, comprised of the NPS, a predominantly Creole party; the Progressive Reform Party, a predominantly Hindustani party; the Suriname Labor Party, a political wing of the largest labor union; and Pertjaja Luhur, a predominantly Javanese party.

There are historical and cultural impediments to equal participation by women in leadership positions in government and political parties, and they are underrepresented in government and politics. 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 have made limited gains in attaining political power in recent years, political circles remain under the influence of traditional male-dominated groups, and women are disadvantaged in seeking high public office. In the May elections, voters elected nine women to the National Assembly, compared with six who held seats in the previous assembly, and the Assembly appointed a woman as vice chairperson. The Cabinet includes one woman as Minister of Foreign Affairs, another as Minister of Internal Affairs, and a third as Deputy Minister of Social Affairs.

Although the Constitution prohibits racial or 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. Most of the country's political activity takes place in the capital 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. Voters elected the first Amerindians to the National Assembly in 1996. After the May elections, there are eight Maroons and one Amerindian in the National Assembly. There are no Maroons or Amerindians in the Cabinet.

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

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally are not cooperative or responsive to their views. There have been complaints of surveillance of human rights workers by members of the military police and the division of central intelligence.

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

The Constitution and laws, with the exception of 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 suffer various forms of discrimination.

*Women.*—Violence against women is a problem. The law does not differentiate between domestic violence and other forms of assault. The Government has not addressed specifically the problem of violence against women. According to a national women's group, victims continue to report cases of violence against women and complain of an inadequate response from the Government and society to what appears to be a trend of increasing family violence. Although the police have been reluctant to intervene in instances of domestic violence, a national women's group noted that police attitudes have improved significantly as a result of training conducted in 1999.

There are no specific laws to protect women against trafficking and sexual exploitation. Prostitution is illegal; however, the police lack the resources to enforce these laws effectively. There were credible reports of trafficking in women for prostitution (see Section 6.f.).

Women have the right to equal access to education, employment, and property. Nevertheless, social pressures and customs, especially in rural areas, inhibit their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experience economic discrimination in access to employment and in rates of pay for the same or substantially similar work. The Government has not made specific efforts to combat economic discrimination.

The National Women's Center is a government agency devoted to women's issues; there is also a women's policy coordinator. Their effectiveness is limited severely by financial and staffing constraints. The principal concerns of women's groups are political representation, economic vulnerability, violence, and discrimination.

*Children.*—School attendance is free and compulsory until 12 years of age, but some school-age children do not have access to education due to a lack of transportation, facilities, or teachers. There is no legal difference in the treatment of girls and boys in education or health care services, and in practice both are treated fairly equally. Both students and parents complained about the Government's decision to double enrollment fees for public school, which occurred both in 1999 and 2000. Children face increasing economic pressure to discontinue their education in order to work.

The Government allocates only limited resources to ensure safeguards for the human rights and welfare of children. There are continuing reports of malnutrition among poor children, but it is difficult to quantify the extent of the problem. In the capital, where most of the country's population is concentrated, there are several orphanages and one privately funded shelter for sexually abused children. Elsewhere, distressed children usually must rely on the resources of their extended families. There were credible reports of hospitals refusing to hand newborns over to their mothers until hospital bills were paid in full, sending them instead to a state facility. The Government denied that such refusals occurred and stated that there was no such policy; one human rights group continued its investigation into the matter.

There is no societal pattern of abuse directed against children; however, some children are exploited sexually, and there were credible reports of trafficking in girls for prostitution (see Section 6.f.). The legal age of sexual consent is 14; however, it is not enforced strictly, and the Asian Marriage Law lowers the marriage age for children of Asian descent to 12 years for girls and 15 years for boys. Otherwise, one must be 31 years old to marry without parental permission.

*People with Disabilities.*—There are no laws concerning disabled persons and no provisions for making private or public buildings accessible to them. There are also no laws mandating that they be given equal consideration when seeking jobs or housing. However, there are some training programs for the blind and others with disabilities. In practice disabled persons suffer from discrimination when applying for jobs and services.

*Indigenous People.*—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians and Maroons suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The country's political life, educational opportunities, and jobs are concentrated in the capital and its environs, while the majority of Amerindians and Maroons live in the interior. Government services in the interior became largely unavailable, and much of the infrastructure was destroyed during the 1986–91 domestic insurgencies; progress in reestablishing services and rebuilding the infrastructure has been very slow.

The Government appointed the Consultative Council for the Development of the Interior in September 1995. This council, provided for in the 1992 peace accords that formally ended the insurgencies, includes representatives of the Maroon and Amerindian communities. However, the Government did not consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands. Early in the year, the Widjenbosch Government made an attempt to grant some land rights to indigenous people. Tribal leaders rejected the proposal, asserting that it was too weak. In November the new Government's Minister of Natural Resources met with tribal leaders and promised to work with tribal authorities toward a solution regarding land grants.

Organizations representing Maroon and Amerindian communities complain that small-scale mining operations, mainly illegal Brazilian gold miners, dig trenches that cut residents off from their agricultural land and threaten to drive them away from their traditional settlements. Mercury runoff from these operations also contaminates and threatens traditional food source areas.

Maroon and Amerindian groups continued to cooperate with each other in order to exercise their rights more effectively. Two summits, or “gran krutus,” bringing together Maroon and Amerindian tribal leaders, have been held, the most recent in September 1996. During these summits, indigenous leaders reiterated their demands for the right to participate in decisions concerning the use of natural resources on land they claim as their own and for greater autonomy from the Government.

*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 is organized into unions, and most unions belong to one of the country’s six major labor federations. Unions are independent of the Government but play an active role in politics. The small Labor Party historically has been a very influential force in government.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors are common as workers try to secure wage gains to protect their earning power from inflation.

There are no restrictions on unions’ international activities.

*b. The Right to Organize and Bargain Collectively.*—The Constitution explicitly recognizes these rights, and the authorities respect them in practice. Collective bargaining agreements cover approximately 50 percent of the labor force. Bauxite industry workers are organized, but gold miners are not. The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it generally is not known to occur. However, there were credible reports of trafficking in women and girls for prostitution (see Section 6.f.). The law prohibits forced and bonded labor by children, and such practices generally are not known to occur.

*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 enforce this law only sporadically. Children under 14 years of age work as street vendors, newspaper sellers, or shop assistants. Working hours for youths are not limited in comparison with the regular work force. School attendance is compulsory until 12 years of age. The law prohibits forced and bonded labor by children, and there were no reports of such practices, although trafficking of girls for prostitution does occur (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—There is no minimum wage legislation. In October 1999, civil servants were granted a tax-free 60 percent pay increase for those with the lowest wages, a 55 percent increase for middle wage earners, and a 50 percent increase for the highest wage earners. Including that pay increase and a cost of living allowance of about \$12 (Sfl 30,000), the lowest wage for civil servants is about \$40 (Sfl 102,000) per month. This salary level makes it very difficult to provide a decent standard of living for a worker and family. Government employees, who constitute approximately 50 percent of the work force of 100,000, frequently supplement 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. Civil service and other wages are not keeping pace with inflation.

Work in excess of 9 hours per day or 45 hours per week on a regular basis requires special government permission, which is granted routinely. Such overtime work earns 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 is responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel preclude the division from making regular inspections of industry. Accident rates in local industry do not appear to be high, and the key bauxite industry has an outstanding safety record. However, there is no law authorizing workers to refuse to work in circumstances they deem unsafe. They must appeal to the inspectorate to declare the workplace situation unsafe.

*f. Trafficking in Persons.*—The only laws that specifically prohibit trafficking in persons are old “white slavery laws” that are enforced only rarely.

There were credible reports of trafficking in women and girls for prostitution. Women and girls from the interior are brought to the capital city and also to various

gold mining locations in the interior. Several clubs in the capital also are known for recruiting women from Brazil and the Caribbean. There were credible reports of individuals using the country as a transit point to transport Brazilian women to Europe and the United States for purposes of prostitution.

In addition alien smuggling organizations use the country as an intermediate destination to smuggle Chinese nationals, including women and girls, to the United States, where frequently they are forced into bonded-labor situations.

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## TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been free and fair general elections since independence from the United Kingdom in 1962. A bicameral parliament and a prime minister govern the country. Parliament elects a president, whose office is largely ceremonial. In elections on December 11, voters returned the ruling United National Congress (UNC) party led by Prime Minister Basdeo Panday to power with 19 seats in the 36-member Parliament. A 12-member elected House of Assembly handles local matters on the island of Tobago. The judiciary is independent but inefficient.

The Ministry of National Security controls the police service and the defense force, which are responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the police service, and the Ministry has little direct influence over changes in senior positions. Police and prison guards committed some abuses.

Oil and natural gas production and related downstream petrochemical industries form the basis of the market-based economy. The service sector is the largest employer, although continued industrialization has created many jobs in the construction industry. Agriculture, while contributing only 2 percent to gross domestic product, remains an important employer, both at the subsistence and commercial level. Although per capita income is approximately \$5,700 annually, 12.5 percent unemployment contributes to a skewed income distribution, which has not improved despite economic growth of 6.7 percent. Government efforts to address this problem by further diversification into manufacturing and tourism have been only partially successful.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, police and guard abuse of prisoners, poor prison conditions, long delays in trials, and extensive violence against women remain problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

In the December 31, 1999, murder of politician Hanraj Sumairsingh, which some thought might have had a political motivation, the police arrested and charged a member of Jamat al Muslimeen, a radical group. However, bribery and corruption were believed to be motives behind the killing.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that officials employed them; however, there were credible reports of police and prison personnel abusing prisoners in incidents that involved beating, pushing, and verbal insults.

A 1999 ruling permits corporal punishment for certain crimes, including aggravated assault, rape, deliberate shooting, and robbery with violence. During the year, the courts sentenced 5 persons to corporal punishment (ranging from 5 to 10 birch strokes) in addition to prison terms. The law also was changed to increase the corporal punishment for rape from 15 strokes to 20.

Prison conditions at the women's prison and two of the three men's prisons meet minimum international standards. However, conditions are worse in the Port of Spain prison, which dates from the 1830's. It was designed for 250 inmates but houses about 1,000. Diseases such as chicken pox, tuberculosis, AIDS, and other viruses spread easily, and prisoners generally must purchase their own medication. Overcrowding is a problem for the entire prison system, which housed 4,700 inmates in prisons built to accommodate 1,800. A new maximum security prison opened in

1998 houses about 850 prisoners, but it is not yet fully functional. With an eventual capacity of 2,100, this prison is expected to help alleviate the problem.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government generally observes this prohibition.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically bring the accused before a magistrate within 24 hours; for indictable offenses, the accused must appear within 48 hours. At that time, the magistrate reads the charge and determines whether bail is appropriate. Magistrates may deny bail to violent or repeat offenders. If for some reason the accused does not come before the magistrate, the case comes up on the magistrate's docket every 8 to 10 days until a hearing date is set. The courts notify persons of their right to an attorney and allow them access to an attorney once they are in custody and prior to any interrogation. However, the authorities do not always comply with these standards. Allegations of corruption among justices of the peace also raised concerns about compliance; the Government pledged to dismiss and prosecute any justice found to have violated these standards (see Section 1.e.).

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. A person detained under this provision has access to counsel and may have the detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide the tribunal with the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably practicable" following receipt of the grounds. There have been no reports that the authorities abused this procedure.

The Constitution prohibits forced exile, and it is not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair judicial process. After the Chief Justice warned in 1999 that the executive branch was encroaching upon judicial independence, the Government appointed two independent commissions to review the issue. A Commonwealth commission concluded that the judiciary was not threatened by the Attorney General's involvement in judicial administration; however, a law association group recommended that executive requests should be handled by the Prime Minister, not the Attorney General.

The court system consists of a court of appeal, a high court, and a magistrate's court. A criminal offense first is sent to a magistrate's court for a preliminary inquiry to determine if it can be heard before a magistrate without a jury. If the magistrate determines that the offense is a serious one, it is referred to the High Court, where it is heard before a judge and jury. All civil matters are heard by the High Court. Appeals can be filed with the local court of appeal and ultimately to the Privy Council in London. There is considerable support for abolishing appeals to the Privy Council and establishing a Caribbean Court of Justice, located in Trinidad and Tobago, to serve as the final court of appeal.

An October decision of the Privy Council ruled that all death row prisoners throughout the Caribbean have a right to be heard before its Mercy Committee, which can stay death sentences. The Council decided that prisoners should be given access to all material put before the Mercy Committee. In addition procedures followed by the Mercy Committee now can be subject to judicial review.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. All criminal defendants have the right to an attorney. In practice the courts sometimes appoint attorneys for those persons charged with indictable offenses (serious crimes) if they cannot retain one on their own behalf. The law requires a person accused of murder to have an attorney. An indigent person may refuse to accept an assigned attorney for cause and obtain a replacement.

Despite serious efforts to improve the judiciary, severe inefficiency remains in many areas. Several criminal cases were dismissed due to judicial or police inefficiency. Despite significant progress, lengthy trial delays remain a serious problem.

The Government continued to take steps against corruption in the criminal justice system. Over a 2-year period, the authorities charged at least 80 persons with various offenses after a presidential commission's investigation found collusion among justices of the peace, bailiffs, and police officers in the granting and fixing of bail. The Government revoked the licenses of 25 justices of the peace. However, at year's end, the charges brought against these individuals were still before the court. Only

one of those indicted as a result of the commission's inquiry had come to trial. In that case, a court convicted one of the justices of the peace and sentenced him to 4 years' imprisonment.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are 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 and of the press, and the Government respects this right in practice. An independent press and a functioning democratic political system combine to ensure freedom of speech and of the press.

The three major daily newspapers freely and often criticize the Government in editorials. Widely read weekly tabloids tend to be extremely critical of the Government. All newspapers are privately owned. The two local television newscasts, one of which appears on a state-owned station, are sometimes critical of the Government but generally do not editorialize.

Over the past several years, the Media Association of Trinidad and Tobago and the Publishers' Association have expressed concern about media treatment and access to the Government. For its part, the Government sometimes charges unfair treatment by the media, which the press views as unwarranted criticism. When the Prime Minister labeled Ken Gordon, head of a major media corporation, a "pseudoracist" for editorials about the rise of the ruling UNC party, Gordon filed suit for libel. In November a court found the Prime Minister guilty of libel and ordered him to pay damages to Gordon.

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 are banned.

The Government respects academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. The police routinely grant the required advance permits for street marches, demonstrations, or other outdoor public meetings. In 1998 the Government amended the Summary Offences Act to put greater controls on holding public rallies. The amendments 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. In practice the amendments have not restricted unduly public meetings, demonstrations, or exempted events. One planned political youth demonstration was postponed when the police denied a permit due to concerns about size and safety.

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

In October Parliament passed an Equal Opportunities Bill that prohibits acts that offend or insult another person or group on the grounds of race, origin, or religion, or which incite racial or religious hatred. In November Parliament passed a separate bill that in part removed certain legal provisions interfering with the religious practices of the Spiritual Shouter Baptist and Orisa faiths.

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

There is no provision for persons to claim or be classified as refugees or asylum seekers; the Ministry of National Security's Immigration Division handles any such requests on a case-by-case basis. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held at intervals not to exceed 5 years. Elections for the 12-member Tobago House of As-

sembly are held every 4 years. 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.

In the 1995 general elections, the former opposition UNC and the ruling People's National Movement (PNM) each won 17 seats in the 36-member Parliament. The National Alliance for Reconstruction (NAR) won two seats and joined with the UNC to form a new government. Basdeo Panday became the country's first Prime Minister of East Indian descent. The PNM is primarily but not exclusively Afro-Trinidadian; the UNC is primarily but not exclusively Indo-Trinidadian. In general elections in December, voters returned Prime Minister Panday and his UNC party to power with a 19-seat majority. The PNM won 16 seats and the NAR 1 seat. Election observers noted that the elections were wellorganized, peaceful, free, and fair. Several recounts were requested and proceeded without incident. By year's end, opposition challenges to election results in two districts had not yet been decided.

There are no specific laws that restrict the participation of women or minorities in government or the political parties. Women hold many positions in the Government and political party leadership but are still under-represented. Four of 36 elected members of the House of Representatives and 9 of 31 appointed Senators are women, with 2 women serving as ministers. Prime Minister Panday appointed the first woman to serve as Attorney General; she since has moved to the position of Minister of Education. Prime Minister Panday also appointed the first female acting Prime Minister.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. While government officials are cooperative, the Government has bitterly attacked Amnesty International's criticism of prison conditions and due process. An independent Ombudsman receives complaints relating to governmental administrative issues and investigates complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

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. In 1999 it withdrew from the IACHR following its required 1-year notice. The Government also withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights, but reaccessed with the reservation that the U.N. Committee would not have jurisdiction over death penalty cases.

The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constitutes cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government established time limits for appeals to courts and human rights bodies. Local appeals are now disposed of within an average of 16 months compared with the previous average of 7 years.

The Government asked the IACHR and the U.N. Committee each to agree to dispose of petitions within 8 months. According to the Government, both bodies responded that they could not provide such assurances. The Government stated that the conflict between a binding Privy Council ruling and its obligations to the human rights organs had to be resolved in favor of the Constitution and the Privy Council. The Government indicated that it would execute condemned prisoners who have exhausted all their appeals and have unresolved petitions pending more than 8 months before one of the human rights bodies.

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

The Government respects in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex. In October Parliament passed an Equal Opportunities Bill that makes discrimination illegal on the basis of race, ethnicity, sex, religion, marital status or disability. It also establishes a commission to investigate cases of alleged discrimination and a tribunal to judge complaints.

*Women.*—Physical abuse of women continued to be an extensive problem. There has been increased media coverage of domestic abuse cases and signs of a shift in public opinion, which held that such cases were a private matter. The Government has taken action to improve aid to victims. Murder, rape, and other crimes against women are reported frequently; 30 percent of all female homicide victims were believed to have been killed by their husbands or lovers. Rape, spousal abuse, and spousal rape are criminal offenses. The 1991 Domestic Violence Act was intended

to facilitate court-issued restraining orders to protect victims and extended protection to common-law relationships, a frequent form of marital union. However, some observers say that the number of restraining orders issued has not increased at the rate expected since the enactment of the law. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers are reported to be unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. There were more than 4,000 complaints of spousal abuse during the year; police handled an average of 9 cases a day that led to reports by victims, with the actual incidence of such abuse considered to be much higher. Two government ministries, operating independently, direct the nongovernmental organizations (NGO's) that run most of the country's social programs addressing domestic violence, including five shelters for battered women. A rape crisis center offers counseling for rape victims and perpetrators on a voluntary basis. A government-sponsored hot line receives about 300 calls per month.

In 1999 a new Domestic Violence Act came into effect. That law strengthened provisions of the 1991 law and allows easier access for police in instances of domestic violence. Parliament approved amendments to the Sexual Offences Act that broaden the definition of sexual offenses, increase the punishment for such crimes, and require the police to keep a register of sexual offenders.

Many women hold positions in business, the professions, and government, but men tend to hold the most senior positions. There is no law or regulation requiring equal pay for equal work; during the year, a bill containing such provisions was introduced into Parliament, but no action was taken on it.

The Division of Gender Affairs in the Ministry of Culture and Gender Affairs is charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also exist.

*Children.*—The Government's ability to protect children's welfare is limited by a lack of funds and expanding social needs. Education is free and compulsory through primary school. Some parts of the public school system seriously fail to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. There is no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. Abused children are usually placed with relatives if they are removed from the home. If there is no relative who can take them, there are several government institutions and NGO's that accept children for placement.

*People with Disabilities.*—There is no legislation that specifically enumerates or protects the rights of disabled persons or mandates the provision of access to buildings or services, although NGO's lobbied Parliament to pass such legislation. The lack of access to transportation, buildings, and sidewalks is a major obstacle for the disabled. The Government provides some public assistance and partial funding to a variety of NGO's which, in turn, provide direct services to disabled members or clients.

*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 are not subject to discrimination.

*National/Racial/Ethnic Minorities.*—Various ethnic and religious groups live together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appear between Afro-Trinidadians and Indo-Trinidadians. Each group comprises about 40 percent of the population. The private sector is dominated by Indo-Trinidadians and people of European, Middle Eastern, or Asian descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians tend to find employment in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians assert that they are excluded from equal representation in the civil service due to racial discrimination. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians are in the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones.

In 1996 there were reports that several popular recreational clubs refused entry to Afro-Trinidadians and dark-skinned Indo-Trinidadians. The reports led to criticism of racism by the local press, and the Government pledged to implement a law banning racial discrimination in entry policies for private clubs. However, the Government has not yet taken such action.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1972 Industrial Relations Act provides that all workers, including those in state-owned enterprises, may form or join unions of

their own choosing without prior authorization. Union membership has declined in recent years, with an estimated 25 to 30 percent of the work force organized in 19 active unions. Most unions are independent of the Government or political party control, although the Sugar Workers' Union historically was allied with the UNC. The Prime Minister formerly was president of the Sugar Workers' Union.

The law prohibits antiunion activities before a union is registered legally, and the Ministry of Labor enforces this provision when it receives a complaint. A union also may bring a request for enforcement to the Industrial Court. All employees except those in "essential services," which include the police and many other government employees, have the right to strike.

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 consider this court to be impartial; it consists of government, business, and labor representatives.

Unions freely join federations and affiliate with international bodies. There are no restrictions on international travel or contacts.

*b. The Right to Organize and Bargain Collectively.*—The Industrial Relations Act establishes the right of workers to collective bargaining. The Ministry of Labor's conciliation service maintains statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

The Industrial Court may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation, or it can impose other penalties including imprisonment. When necessary the conciliation service also determines which unions should have senior status.

There are several export processing zones (EPZ's). The same labor laws apply in the EPZ's as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The law does not prohibit specifically forced or compulsory labor, but there were no reports that it was practiced. There were also no reports of forced or bonded labor by children.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for workers is 12 years. Education is compulsory through primary school. 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 probation service in the Ministry of Social Development and Family Services is responsible for enforcing child labor provisions, but enforcement is lax. There is no organized exploitation of child labor, but children are seen begging or working as street vendors. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The 1998 Minimum Wages Act established a minimum wage of about \$1.10 (TT\$7.00) per hour. The minimum wage is not sufficient to support a worker and family, but most workers earn more than the minimum. The Ministry of Labor enforces the minimum wage regulations.

The Minimum Wages Act also established a 40-hour workweek, time- and-one-half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days, the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave form 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 Industrial Relations Act 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 legislation dealing with kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports of persons being trafficked to, from, within, or through the country.

## URUGUAY

Uruguay is a constitutional republic with an elected president and a bicameral legislature. In November 1999, voters elected Senator Jorge Batlle of the Colorado party President, and he assumed office on March 1. In legislative elections in October 1999, the left-of-center Broad Front coalition won approximately 40 percent of the vote in a four-party race, thus constituting the largest congressional bloc. The two traditional parties, the Colorados and the Blancos, which collaborate in a coalition-style arrangement, together control over half of the seats in the legislature. The judiciary is independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. The civilian authorities exercise effective control over the security forces. The police at times committed human rights abuses.

The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The leading exports are meat, leather, and rice. The Government respects private property rights. The unemployment rate was estimated at 14.4 percent in November. The economy shrank by between 0.5 and 1 percent during the year, following a decline of 3.2 percent in 1999. Annual per capita income was about \$6,348 in 1999.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of dealing with individual instances of abuse. However, there were problems in some areas, principally instances of police abuse and mistreatment of detainees, poor prison conditions, and delays in the justice system. Court cases sometimes last for many years, resulting in lengthy pretrial detention. In August the President created a Peace Commission to clarify what happened to about 160 persons who disappeared for political reasons during the 1973–85 military dictatorship. Violence against women and societal discrimination against women and the black minority are problems. In September the police arrested the leader of a small neo-Nazi group.

## RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings.

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 in 1973–85. However, some victims and relatives of victims had success using the civilian courts to seek redress.

In the case initiated in 1999 by the widow of a criminal suspect who in 1998 died under suspicious circumstances while in police custody, the court dismissed charges against the principal suspect. Although an appellate court ordered the trial court to investigate the causes of the criminal suspect's death, the judge and prosecutor shelved the investigation.

The decision of the Supreme Court of Justice was pending in the case of 12 former political prisoners and their families who sued the Government for damages suffered as a result of their imprisonment, torture, and in three cases death in custody during the military dictatorship. Although in 1998 a trial-level court ordered the Government to pay each plaintiff approximately \$93,600 (1.17 million pesos) in damages, an appellate-level court later reduced this award to approximately \$16,850 (210,600 pesos) per person for 11 of the cases and \$23,640 (295,500 pesos) for the other case. The plaintiffs have appealed the appellate court's decision to the Supreme Court of Justice.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Although the 1986 Amnesty Law required the Government to investigate the fate of those citizens who were detained and who then disappeared during the dictatorship, the first three administrations following the return to democracy consistently refused to do so. During the year, the new Government for the first time undertook such an effort.

On August 9, President Batlle created a Peace Commission in order to clarify the fate of the approximately 160 Uruguayans believed to have disappeared for political reasons during the dictatorship (115 in Argentina, 36 in Uruguay, 6 in Chile, and 2 in Paraguay). The Commission was charged with receiving and analyzing information relevant to the disappeared persons. It is to prepare individual summaries of its conclusions as to the fate of each person and to recommend legal measures that the Government should adopt to compensate the families of the victims and resolve

the victims' legal status, such as by declaring them legally dead. The Commission consists of six members appointed by the President and operates under the supervision of the office of the President. One retired military officer told the press that "hundreds" of current and retired officers serving during the period of military rule had adopted a pact of silence with regard to the disappearances. Although the Commission was created for an initial mandate of 120 days, in early December its mandate was extended for an additional 4-month period.

Shortly after taking office, President Batlle personally intervened to resolve one of the most high-profile cases of a disappeared person, that of the granddaughter of Argentine poet Juan Gelman. By combining information provided by Gelman with information obtained from other sources, Batlle succeeded in locating the young woman, who had been born in captivity in Uruguay to Gelman's daughter-in-law and adopted by an Uruguayan family after her mother died in prison.

Since the 1986 Amnesty Law precludes criminal actions against suspected participants in human rights violations during military rule, some persons have sought justice in non-Uruguayan courts. In March 1999, Sara Mendez filed papers in an Argentine court formally accusing five present and former members of the Uruguayan military with the 1976 kidnaping of her infant from her Buenos Aires home. The case remained pending in Argentine courts and, during the course of the year, Mendez gave testimony on several occasions. A DNA sample taken in May from a young man believed possibly to have been Mendez' kidnaped son indicated that he was not related to Mendez. An Italian prosecutor continued to investigate charges brought in an Italian court in 1999 against four present and former members of the military and one police officer accused of responsibility in the disappearance of eight Italian-Uruguayan dual nationals.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits brutal treatment of prisoners, but the police continued at times to commit abuses. On occasion such abuse resulted in forced confessions (see Section 1.d.).

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it is understaffed and only can issue recommendations for disciplinary action. While the courts seldom convicted and punished law enforcement officials for such abuse in the past, such prosecutions were occurring more frequently. In the first 5 months of the year, the authorities prosecuted approximately 40 police officers for a variety of crimes, typically involving corruption, excessive use of force, or theft of suspects' property. They brought homicide charges against one officer, who shot and killed a neighbor who had a dispute with the officer's brother-in-law.

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. A 1999 Ministry of Interior study reported that courts had investigated or convicted 179 police officers, and that 117 of these cases were linked directly to the exercise of their jobs. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, in accordance with U.N. codes regarding the use of force.

Some torture victims and relatives of victims continued to use the courts to seek redress for their grievances. A group of 12 former political prisoners (and their survivors) appealed the decision of an appellate court to reduce the award made by a trial court for the damages that they suffered due to their imprisonment and torture (see Section 1.a.).

Conditions in prisons for the approximately 4,450 prisoners remain poor but not life threatening. A 1997 legislative human rights commission report criticized the "excessive use of force and abuse of authority" by prison guards and officials, and stated that sanitation and health standards in the prison system were "unacceptable." This report reflected the work of a previous commission that in 1996 published a report to the Government citing overcrowding, lack of staff training, corruption, and physical violence as problems. Prisoners often find that they must supplement prison provisions with bedding, medicines, and toiletries brought by friends or relatives. According to press reports and a study conducted by SERPAJ, a non-governmental organization (NGO), HIV-positive inmates sometimes received inadequate medical treatment. There were several incidents of prisoner unrest during the year, including at least one hunger strike in which several hundred prisoners demanded better prison conditions, but none were as serious as the incidents of unrest that occurred in 1999.

Female prisoners are held in separate facilities from male prisoners; most are held in a women's prison in Montevideo. Some provincial prisons have separate facilities for their small number of female prisoners. In general conditions for female

prisoners are significantly better than for male prisoners, in large part because of the small number of female inmates.

Minors are held in institutions operated by the National Institute for Minors (INAME). The most controversial aspect of the 1995 Public Security Law would allow the Government to put minors with a record of violent crimes in adult prisons if INAME has no room in its own institutions. Even though the law stipulates that minors would occupy separate facilities within the prisons, human rights groups adamantly opposed this provision. As a result, INAME has decided that it will not send minors to adult prisons. Juvenile offenders are separated according to their gender, age, and the severity of their crime. Those juveniles who commit serious crimes are incarcerated in juvenile detention centers, which resemble traditional jails and have cells. Conditions in these facilities are generally better than those in ordinary jails, in part because they are less crowded. Juvenile offenders who pose less of a threat to society are placed in halfway house facilities, oriented toward rehabilitation, in which a group of offenders lives together with adult counselors. These facilities provide educational, vocational, and other opportunities, and the juvenile offenders are able to enter and leave without restriction.

The Government permits prison visits by human rights monitors, although prisoner unrest, as well as the requirement to route all such requests through the Ministry of Interior, at times caused delays.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respect this provision in practice. The only exception is when the police apprehend the accused during commission of a crime. The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. In June the President signed a new law that obligates police officers to inform individuals of the reason for their arrest. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. It is during this 24-hour period that police sometimes abuse prisoners, occasionally resulting in forced confessions (see Section 1.c.).

A 1980 law stipulates that police confessions obtained before a prisoner appears before a judge and attorney (without the police present) have no validity. Further, should a prisoner 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, as of mid-year approximately 73 percent of all persons incarcerated were awaiting a final decision in their case (compared with 68 percent in mid-1999). However, this proportion used to be 90 percent; declines in recent years are due to the Government's efforts to improve the functioning of the criminal justice system. Because of the slowness of the judicial process, the length of time prisoners spend in jail before the judge issues a verdict may exceed the maximum sentence for their crime. The uncertainty as to how long one will be imprisoned is a factor creating tension within the country's prisons.

The Government does not use forced exile as a means of punishment.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which are not made public routinely. Only the prosecutor and defense attorney have access to all documents that form part of the written record. The courts introduced oral argument in 1990, but individual judges use it at their option. Most judges choose to retain the written method, a major factor slowing the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. Either the defense attorney or the prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

A 1997 law to reform and modernize the Criminal Code provides for more oral argument by prosecution and defense attorneys, less investigative responsibility for judges, and is expected to accelerate the pace of criminal trials. Although the law

was to take effect in 1998, budget constraints have resulted in repeated postponement of its implementation, and it is not scheduled for implementation until 2004.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are 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 and of the press, but the authorities may abridge these rights if persons are deemed to be inciting violence or “insulting the nation.”

All elements of the political spectrum freely express their viewpoints in both print and broadcast media.

Montevideo has 5 daily newspapers and 9 important weeklies; there are also approximately 80 other weekly and a few daily newspapers throughout the country. Montevideo has one government-affiliated and three commercial television stations. There are about 150 radio stations, 25 television stations, and 250 cable television stations in the country.

A 1989 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 calls for 3 months’ to 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 use this law intermittently to set and enforce certain limits on freedom of the press.

Human rights activists and journalists have alleged that state enterprises such as the telephone and electric companies on occasion have withheld advertising from independent media that are critical of the Government and have favored media friendly to the Government with extensive paid advertising.

In February Nery Colombo, a former local official seeking reelection, shot and killed journalist and radio station owner Julio Cesar da Rosa, after the latter suggested in a broadcast that the former was unfit to run for public office. Colombo committed suicide immediately after the killing. On the night of May 2, unknown assailants shot at journalist and political activist Julio Cesar Sanchez Padilla while he was driving his car. Sanchez was not injured, and the authorities were unable to identify the perpetrators of, or a motive for, the attack.

In August the press association criticized the newspaper distributors’ union for a 1-day refusal to distribute one newspaper (see Section 6.a.).

The national university is autonomous, and the authorities respect academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government respects them 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.

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

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

The Government grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government grants first asylum in cases in which a refugee’s claims are verified by the UNHCR. The Government works actively with international organizations in the provision of temporary protection to refugees from Colombia.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country is a multiparty democracy with mandatory voting for those 18 years of age or older, and there are no suffrage restrictions regarding race, sex, religion, or economic status. The Colorado

party, the National (Blanco) party, the Broad Front coalition, and the New Space party are the four major political groupings.

Women and minorities are under-represented in politics and government. None of the 13 cabinet ministers are women, and only 3 of 30 senators and 13 of 99 deputies are women. There are no female justices on the Supreme Court. There has never been a black parliamentarian or cabinet-level official except in July when, for the first time, an Afro-Uruguayan elected as an alternate deputy substituted in legislative sessions for an absent deputy for approximately 10 days.

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

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

In August the President created a Peace Commission to clarify what happened to the persons who disappeared for political reasons during the 1973–85 military dictatorship (see Section 1.b.).

*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, discrimination against some groups exists.

*Women.*—Violence against women continues to be a serious problem. A 1999 Ministry of Public Health study projected that within 5 years, domestic violence would constitute the second most prevalent threat to public health, after traffic accidents. In a 1997 poll of 545 urban and suburban households, 47 percent of respondents reported physical or psychological abuse from their partners, with 23 percent reporting severe abuse. 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 Montevideo city hall's hot line for victims of domestic violence received about 4,500 complaints during the year, compared with 5,975 complaints in 1999. Persons calling the hot line are provided counseling, free legal advice, and may be referred to NGO's that can provide further social services. A new law signed in June increased sentences for rape and certain other sexually related crimes. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely are initiated for those crimes. Similarly, although the law prohibits sexual harassment in the workplace, few complaints are ever filed under this provision.

The Government has established an office of assistance for victims of domestic violence that trains police how to resolve complaints of violence against women. A directorate within the Ministry of Interior instituted a public awareness campaign about domestic violence and founded 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 NGO's operate shelters in which abused women and their families can seek temporary refuge.

Women enjoy equality under the law but face discrimination stemming from traditional attitudes and practices. The work force exhibits segregation by gender. Women, who make up almost one-half the work force, tend to be concentrated in lower paying jobs. Women's salaries average two-thirds those of men, a figure that reflects gradual improvement in recent years with respect to pay equity. In 1999 about 60 percent of the students at the public university were women. Women often pursue professional careers but are underrepresented in traditionally male-dominated professions. In 1997 the Government approved regulations to implement a 1989 law for equality in the workplace that had previously gone unenforced, and it formed a national commission for workplace equality that includes representatives from the Ministry of Labor, the Ministry of Education and Culture, chambers of commerce, and the umbrella labor organization. However, there never have been any cases brought under the new regulations. There were 13 female cadets enrolled in the Air Force Academy's 75-member student body, representing nearly a doubling of the female enrollment since 1999. Four female cadets are expected to receive commissions as pilots or navigators in the air force during the year. The Army Military Academy has 27 female cadets, out of a total enrollment of approximately 225. The Naval Academy admitted its first female cadet during the year.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities remained centered on followup to the platform of action of the 1995 U.N. Conference on Women.

*Children.*—The Government generally is committed to protecting children's rights and welfare, and it regards the education and health of children as a top priority. An institute in the Ministry of Interior oversees implementation of the Government's programs for children but receives only limited funding for programs. An estimated 40 percent of children under the age of 5 live in the poorest 20 percent of homes. The Government is attempting to extend proper health care and education to them with the help of UNICEF. The Government provides free, compulsory primary and secondary education, and 95 percent of children complete their primary education. Girls and boys are treated similarly. Free education is 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 the National Institute for Minors for the period determined by the judge. The INAME-run institutions emphasize the rehabilitation of minors. INAME maintains an extensive network of programs, including shelters for at-risk children. INAME also operates a confidential hot line for children who are victims of domestic abuse.

A draft Code of the Child, intended to bring the law into compliance with the provisions of the U.N. Convention on the Rights of the Child, was introduced into the new legislative session during the year. The previous legislative session ended before a prior version of the bill could be enacted into law.

*People with Disabilities.*—A national disabilities commission oversees implementation of a 1989 law on the rights of the disabled. Although the law mandates accessibility for disabled persons only to new buildings or public services, the Government is providing access to a number of existing buildings. The law reserves 4 percent of public sector jobs for the disabled. There is no governmental discrimination against disabled persons in employment, education, or in the provision of other state services. 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 black minority, estimated at 5.9 percent of the population, continues to face societal discrimination. A government study conducted in 1996–97 found that the unemployment rate for blacks was 1.5 times the rate for whites. The National Institute of Statistics found that blacks earn an average of 20 percent less than whites who perform the same job. According to a recent study published by Mundo Afro (an NGO), the illiteracy rate among black women is twice the national average, and the percentage of black women who have pursued higher education is one-third the rate in the population at large. According to the same study, one-half of Afro-Uruguayan women work as household domestics. Blacks are practically unrepresented in the bureaucratic and academic sectors.

*Religious Minorities.*—Isolated neo-Nazi elements have carried out occasional, limited attacks and activities since 1997. Law enforcement authorities have responded vigorously to such activities. In August 1999, an intensive police investigation resulted in the arrest of eight members of a very small neo-Nazi group suspected of creating racist and anti-Semitic Internet websites. The authorities charged five of the suspects with subversive association; two also were charged with inciting hate or violence towards a particular group. Pending the court's final decision in the case, the defendants were released after serving approximately 3 months of imprisonment, the minimum statutory penalty for first offenders in cases of this nature. In September the police arrested and charged with inciting racial hatred the leader of another small neo-Nazi group believed responsible for pro-Nazi propagandizing.

#### *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 concerning union activities. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. An estimated 15 percent of the work force is unionized. Labor unions are independent of political party control but traditionally have associated more closely with the Broad Front, the leftist political coalition.

The Constitution provides workers with the right to strike, and there were numerous strikes during the year. 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." In June the umbrella labor confederation PIT/CNT organized a 1-day general strike. In December the PIT/CNT organized a second 1-day general strike to protest the Government's 5-year austerity budget proposal.

In August after the newspaper *El Pais* printed a story reporting on high costs charged by the newspaper distributors' union, the union refused to distribute *El Pais* for 1 day in protest. The union asserted that it was being blamed for the demise of newspapers, while the press association called the protest an assault on freedom of the press.

There are mechanisms for resolving workers' complaints against employers, but unions complained that these mechanisms sometimes were applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintain that organizers are dismissed for fabricated reasons, thus allowing employers to avoid penalty under the law.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation has chosen not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities. However, in cases of legal challenges by union activists, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers.

Union members continued to file claims of discrimination with the Ministry of Labor, which has a labor commission that investigates all claims. In 1999 there were 16 claims of antiunion discrimination submitted to the Ministry of Labor. (The Ministry's mediation service received a total of 353 laborrelated complaints that year, of which it successfully mediated 307 cases and failed to resolve 31 cases; 15 remained open at the end of that year. Nearly half of all complaints related to workers' wages.) While there was no specific information on the antiunion discrimination complaints, most were resolved through rehiring the employee with full rights or compensation of the employee (without being rehired). Most complaints are resolved within a few months, but a few cases remained unresolved at year's end. Labor unions have complained that some businesses have encouraged formation of worker cooperatives, which serve to reduce their labor costs. Although such cooperatives do not necessarily affect workers' social insurance and other public benefits, they can reduce workers' job security and result in a loss of seniority. They also weaken the power of trade unions and of collective bargaining.

All labor legislation fully covers workers employed in special export zones. There are no unions in any of these zones, but the few workers in these zones are not in traditionally organizable occupations.

*c. Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it is not known to occur. The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the law. Some children work as street vendors in the expanding informal sector or in the agrarian sector, which generally are regulated less strictly and where pay is lower; however, illegal child labor is not a major problem. By law minors under the age of 14 may not be granted permission to work, and this is enforced in practice. Minors between the ages of 14 and 15 are 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. A total of 95 percent of children complete primary school education, which is free and compulsory. Controls over salaries and hours for children are more strict than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. In conjunction with an NGO, in March INAME began a pilot program to pay families \$83 (1,000 pesos) per month to parents who take their children off the streets and send them to school. This amount approximates what a child might earn working on the street. On December 8, the Government created a National Committee for the Eradication of Child Labor, which is to create a national action plan to combat it.

The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, which was set in January at about \$86 (1,060 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family. The vast majority of workers earn more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, in order to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—work off the books and thus forfeit certain legal protection.

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; however, there were no reports that persons were trafficked to, from, within, or through the country.

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## VENEZUELA

Venezuela is a republic with an elected president and a unicameral congress. The Constitution, which entered into effect on December 30, 1999, also provides for a “Citizen Power” branch of government, which includes the Ombudsman, the Public Prosecutor, and the Controller General, and an “electoral power”—the National Electoral Council (CNE). On July 30, voters reelected President Hugo Chavez Frias of the Fifth Republic Movement (MVR). The MVR also won 92 seats in the 165-member legislature. According to international observers, the year’s general elections were generally free and fair; however, there were localized technical problems and irregularities, and the process leading to the elections was a controversial and difficult one. The date for the elections originally was set for May 28, but as that date approached it became increasingly apparent that the CNE had failed to organize the elections adequately. Constant changes to the voter database—which both the opposition and nongovernmental organizations (NGO’s) alleged were intended to offer electoral advantage to President Chavez’s supporters—made it impossible to complete programming of the electronic voting machines or carry out other necessary steps. The Supreme Court ordered a delay and gave responsibility for setting the new date to the National Legislative Committee (a panel serving as the country’s legislature pending election of the National Assembly). The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources.

The security apparatus includes civilian and military elements, both accountable to elected authorities. The Interior and Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. The Defense Ministry controls the General Directorate for Military Intelligence, 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 guarding the exterior of prisons and key government installations, maintaining public order, monitoring frontiers, conducting counterdrug operations, and providing law enforcement in remote areas. It also supplies the top leadership for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. The Metropolitan Police is the main civilian police force in and around Caracas. There was continued controversy during the year over the use of the armed forces in traditionally nonmilitary roles in government and society, including the appointment of military officers to high-ranking government positions. Some 70,000 members of the military continued to participate in a public works program begun in 1999, including conducting a census of the unemployed; providing medical care to the needy; renovating schools, playgrounds, and medical care cen-

ters; and removing garbage. At year's end, 3 of the 14 members of the President's Cabinet, including the Minister of Defense, were either active or retired career military officers, as were the presidents of the major state-owned corporations Petroleos de Venezuela, CITGO, and Corporacion Venezolana de Guyana. There are also a number of military officers in high and mid-ranking government positions in agencies responsible for social development, public works, and finance. Both police and military personnel were responsible for human rights abuses during the year.

The country has abundant natural resources, and its per capita gross domestic product (GDP) is \$4,302. However, income is distributed unevenly with approximately 80 percent of the population living at or below the poverty line, which is \$1,986 per capita. Oil accounted for 27 percent of GDP, 53 percent of government revenues, and 84 percent of the country's exports during the year. Nonoil exports also are dominated by natural resources, with some basic refining. Iron, aluminum, steel, and petrochemical products together comprise nearly half of the country's nonoil exports. The vast majority of all natural resource extraction and production is done by entities owned and operated wholly or in part by the Government. During the year, the economy began to recover from its deepest recession in 10 years as oil prices increased from historic lows to the highest prices since the oil crises of the 1970's. Growth for the year is estimated at 3.2 percent; the economy contracted by 6.1 percent in 1999.

The Government's human rights record remained poor in some areas; although there were improvements in some areas, serious problems remain. During the year, the police and military committed extrajudicial killings of criminal suspects at an increased rate. Excessive use of deadly force by police and security forces was a serious problem; over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. Investigations continued into the forced disappearances of criminal suspects by the security forces. Torture and abuse of detainees continued, and the Government failed to punish police and security officers guilty of abuse. While overcrowding was reduced in some prisons, prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. Arbitrary arrest and detention increased. Lengthy pretrial detention, and corruption and severe inefficiency in the judicial and law enforcement systems also were problems. The Government struggled to implement the Organic Criminal Procedures Code (COPP), which required a major shift from a secretive inquisitorial system to an open adversarial system; however, there were successes including a reduction in the number of prisoners who had not been convicted of a crime. The authorities suspended a number of judges for incompetence or corruption. The December 1999 Constitution established civilian trials for soldiers accused of abuses and committed the Government to the rulings of international courts. Security forces committed illegal searches. Concern over freedom of the press increased, and some critics charged that the Government intimidated the media. Self-censorship was reportedly widespread. Concern over freedom of association increased, due in part to a Supreme Court ruling that could limit the legal rights of some associations. The Government described some refugees as "displaced persons in transit" and restricted their ability to request asylum. The new Constitution created a national Ombudsman, who repeatedly and frankly advocated for the respect of human rights. Violence and discrimination against women, abuse of children, discrimination against the disabled, and inadequate protection of the rights of indigenous people continue to be problems. Concern over labor rights increased, and on December 3, voters approved a referendum to "overhaul" union leadership. Child labor persisted, and there were reports of trafficking in children for forced labor. Killings due to vigilante justice increased significantly.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects, at significantly increased levels. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected human rights NGO, documented 170 extrajudicial killings from October 1999 through September, compared with 101 killings from October 1998 to September 1999. The killings involved summary executions of criminal suspects, indiscriminate or excessive use of force, and death resulting from mistreatment while in custody. According to PROVEA, state police forces other than the Metropolitan Police were responsible for 82 killings; the Metropolitan Police were responsible for 25 killings; the PTJ, 25 killings; the National Guard, 9 killings; the municipal police

forces, 8 killings; the army, 6 killings; the DISIP, 4 killings; and other security forces, 11 killings. These figures reflect a range of killings in very different situations committed by organizations with varying levels of control and responsibilities. The majority of the killings were attributed to various state and municipal police forces that report to local officials and usually have little training or supervision. Excessive use of deadly force was a problem; according to the Government, over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. There are reports that police fire on criminal suspects who disobey orders to halt. Many politicians contributed to a climate of official acceptance of the excessive use of force when, during the national election campaign, they employed slogans such as "bullets for the underworld" and "the only good criminal is a dead criminal."

The perpetrators of extrajudicial killings act with near impunity, as the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the new Organic Criminal Procedures Code and, in the meantime, remains highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of prosecutions in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued are frequently light, or the convictions are overturned on appeal. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; however, the provision does not apply to military trials for cases that predate the new Constitution (see Section 1.e.). Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

Red de Apoyo, an NGO, reported that on January 6, the Yaracuy state police detained Jaime Hilarion Palima and Richard Lucambio on a city street in San Felipe. Hilarion's and Lucambio's bodies were found 5 days later on a river bed and a highway, respectively. The case was under investigation at year's end.

On April 8, the Metropolitan Police fired indiscriminately at a group of individuals who had just seen them shoot and kill a suspected criminal, and also killed one of the witnesses, Guillerma Colmenares. The police also tortured another witness, Donis Ramirez (see Section 1.c.). The case was under investigation at year's end.

On June 30, the Metropolitan Police arrested Ronny Tovar, age 17, Francisco Mister, age 14, and Luis Hernandez, age 21, in their homes. Witnesses heard shots and saw the bodies of the three young men being taken from the scene in a police vehicle. The bodies later were recovered, and the case was under investigation at year's end.

Security forces committed some killings in prisons; however, the majority of the 338 inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

The authorities continued to investigate allegations of human rights violations by the military and security forces sent to Vargas state in December 1999. The forces were sent to restore order after an outbreak of looting following heavy rains, which triggered flooding and landslides that killed an estimated 20,000 persons. Witnesses claim that military and security forces beat, detained, and killed alleged criminal suspects and other individuals between December 19 and December 25, 1999 (see Sections 1.b., 1.c., 1.d., and 4). On May 22, Foreign Minister Jose Vicente Rangel stated that confirmed cases of these abuses were "numerous and important."

For example, on December 25, 1999, National Guard Corporal Lorenzo Badillo Cano shot and killed Luis Bastardo as he celebrated the Christmas holiday on a street in La Guaira. The Prosecutor General, with the cooperation of the PTJ and the National Guard, successfully prosecuted Badillo, who pled guilty to murder and, on September 6, was sentenced to 10 years in prison, less than the 15 to 25 years established by law. The authorities also are investigating four disappearance cases from the same time period in Vargas (see Section 1.b.).

There were no prosecutions for the June 1999 death of Jhon Linares, who was detained by the Metropolitan Police and later was found dead from three bullet wounds at the hospital, or Oswaldo Blanco, who died in February 1999 due to abuse by the National Guard.

At year's end, the trial of a police officer for the February 1999 death of Angel Castillo Munoz was ongoing. Castillo died when Sucre state police broke up a peaceful student demonstration; he was hit in the head by a rubber bullet and fell unconscious into an area saturated by tear gas. Police reportedly continued to fire, despite students' attempts to surrender, resulting in a delay of medical care to the injured students.

The PTJ made no progress in the investigation of the May 1998 killings of Carlos Alberto Colmenares Garcia, Richard David Palacios Garcia, and Avelino Rafael Vega, who died after the Sucre municipal police opened fire on their car. There has been no further investigation into the January 1998 killings of Harold Michael Zambrano Gonzalez and Arturo Jose Hernandez Ramirez by the Metropolitan Police.

There was no further information on the appeal by the prosecution of a court's 1999 decision to exonerate a PTJ member implicated in the 1995 execution-style killing of 21-year-old Hector Rojas, despite evidence of the officer's guilt.

On August 4, a court convicted two National Guardsmen and one prison guard and sentenced them to terms ranging from 15 to 30 years in prison for the 1996 deaths of 25 inmates in a fire started by prison guards at La Planta prison.

In March the victims' families and the Government reached an out-of-court settlement in the case of the 1992 killings of at least 63 prisoners at Catia prison.

In November 1999, before the Inter-American Court of Human Rights, the Government accepted its responsibility in 44 cases of extrajudicial killings by security forces during and after the civil unrest of February-March 1989, in which some 300 alleged extrajudicial killings were committed. The Government also agreed to compensate the families of the victims and to identify and punish those responsible; however, during the year there was considerable disagreement regarding compensation, and an agreement had not been reached at year's end. The Committee of Family Members of Victims of the Unrest had referred a total of 45 cases to the Inter-American Commission on Human Rights (IACHR) in 1995. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In October 1997, the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. By year's end, the Government had complied partially; it had investigated and made a payment, but it had not punished any of those responsible.

Mob lynching of supposed criminals increased significantly due to the public's perception of increased impunity resulting from the difficult implementation of the COPP. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 1999 and September, PROVEA recorded 22 lynchings and 107 attempted lynchings, compared to 2 lynchings and 24 attempted lynchings between October 1998 and September 1999. Vigilante groups known as "brigadas" continued to operate.

*b. Disappearance.*—The December 1999 Constitution prohibits forced disappearance, obliges an individual to disobey an order to carry out a disappearance, and provides for the prosecution of the intellectual author of the crime. There were no reports of targeted political disappearances; however, there were reliable reports of persons who disappeared after being detained by the security forces at the end of 1999.

The authorities are investigating allegations that the military and security forces carried out forced disappearances of alleged criminal suspects and other individuals in Vargas state during a crackdown on looters in December 1999. On December 21, 1999, army paratroopers separately arrested Oscar Blanco Romero and Marco Monasterio without explanation, in their homes in Caraballeda, Vargas state. Following the filing of habeas corpus petitions, the army made a formal response in which they acknowledged detaining the men but stated that they were immediately turned over to the DISIP. The DISIP first stated that they had no agents in the area at the time, then reversed that position, but stated that they did not have Blanco and Monasterio in detention.

On December 21, 1999, army paratroopers beat and arrested Jose Rivas Fernandez on a city street in Caraballeda, Vargas state, according to reliable reports. The army command states that it did not detain Rivas. On December 23, 1999, DISIP agents seized Roberto Hernandez Paz in his uncle's home in La Guaira, Vargas state. The uncle subsequently heard Hernandez plead to the security agents and a gunshot coming from the family's garden. Neighbors witnessed the injured victim being placed in a DISIP vehicle and driven away. The DISIP stated that it did not arrest Hernandez. Neither individual had been located at year's end; investigations into both cases continued.

The Government's investigation of the Vargas cases has been slow and disorganized, and charges have been filed in only one case (see Section 1.a.). The investigating team has been changed three times, with each new team starting a new inquiry afresh. The Government has been unable to compel the cooperation of the DISIP. In response to a request to provide photographs of the agents who operated in Vargas at the time of the disappearances, the DISIP supplied an album that included photographs of retired agents, deceased officers, and prisoners. Prosecutors also are investigating whether DISIP agents broke any laws when they visited army

paratroopers and asked questions about army officers who had served in Vargas in December 1999. Since investigation of the paratroopers is the responsibility of the Prosecutor General and the army, the possibility that DISIP agents were engaged in witness intimidation is under investigation. Human right groups called for obstruction of justice charges to be brought against the DISIP to compel its cooperation.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The new 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 rehabilitation. Under the COPP, detainees have the right to a judicial determination of the legality of their detention within 3 days, a reduction from the previous 8-day period that human rights groups argued was the principal time in which detainees were tortured (see Section 1.d.); however, the security forces continue to torture and abuse detainees physically and psychologically. Credible human rights groups report that this abuse most commonly consists of beatings during arrest or interrogation, but there have been incidents when the security forces used near suffocation and other forms of torture that leave no telltale signs. Most victims come from the poorest and least influential parts of society.

PROVEA documented 429 cases of torture, beatings, and other abuse from October 1999 through September, compared with 424 cases from October 1998 through September 1999. According to PROVEA, the Metropolitan Police of the Caracas federal district were responsible for 94 of the reported incidents; other state police forces were responsible for 147 incidents; the National Guard, 93 incidents; the municipal police forces, 58 incidents; the DISIP, 22 incidents; the army, 9 incidents; and the PTJ, 6 incidents. In April 1999, human rights NGO's presented a report to the U.N. Committee Against Torture in which they documented 120 torture cases since 1987 that they have investigated and reported to the Prosecutor General and the National Human Rights Commission, but that still have not been investigated fully by the Government.

Torture, like extrajudicial killings, continues because the Government does not ensure the independent investigation of complaints needed to bring those responsible to justice. In addition to lack of vigor by the judiciary, the fact that the Institute of Forensic Medicine is part of the PTJ also contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few instances of torture have resulted in convictions.

On March 1, according to Red de Apoyo, the Zulia state police arrested Jose Matheus in his home and accused him of involvement in a kidnaping. The police held Matheus incommunicado for 11 days and severely beat him and tortured him psychologically.

On April 8, the Metropolitan Police tortured and threatened to kill Donis Ramirez if she spoke to the authorities. Ramirez had seen the police fire indiscriminately at a group of individuals who had just witnessed them shoot and kill a suspected criminal, also killing one of the witnesses, Guillerma Colmenares (see Section 1.a.).

There was no prosecution for the August 1999 torture of Juan de la Cruz Bravo by the PTJ in Guasdualito. Bravo, who had been accused of murder, allegedly was drugged, beaten, and subjected to electrical shock. There was also no prosecution for the March 1999 beating of Andres Flores by the Metropolitan Police.

No action ever was reported against some 50 Baruta municipal police officers who attacked residents of the poor working class Caracas suburb of Petare in December 1997, injuring 43 persons. There was no reported progress from the criminal court investigation or the internal investigation by the chief of the Baruta municipal police.

The police used tear gas and pellet guns against peaceful demonstrators, resulting in some injuries (see Section 2.b.).

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted in 1999. Complaints against the security forces in this area subsequently decreased. The Support Network for Justice and Peace has documented many human rights abuses in this region by amassing detailed witness testimony. There has been no resolution of the border area cases from 1995, in which members of the military, in separate incidents in reaction to guerrilla attacks, tortured 23 rural workers near Cararabo and 19 peasant farmers in La Victoria, both in Apure state. The investigations into these incidents continued at year's end.

Prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff and National Guard members, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treat-

ment. During the year, the prison population decreased to 84 percent of capacity, due to the implementation of the COPP. However, because of the poor distribution of inmates, approximately 40 percent of prisoners still are housed in seriously overcrowded facilities.

The Government failed to provide adequate security in prisons, resulting, according to PROVEA, in 338 deaths and 1,255 injuries from violence in jails from October 1999 through September 2000—a decrease from a total of 390 deaths and 1,695 injuries from violence between October 1998 and September 1999. The majority of the 338 inmate deaths resulted from prisoner-on-prisoner violence, especially during clashes between rival gangs, riots, fires, and generally unsafe conditions in prison facilities. Many others died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. Security forces committed a small number of the killings in prisons. Prisoners also had false expectations with respect to the benefits of the COPP, which resulted in increasing levels of tension and violence. Funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that occurs in the prisons.

Female prisoners are detained in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often detain minors together with adults; however, separate facilities exist for juveniles. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

On August 31, the prison emergency, which had been declared on September 30, 1999, was ended, and the Interinstitutional Commission managing it was disbanded. Despite resistance from the Catholic Church and NGO's, the Government sporadically used the National Guard, normally charged with guarding the outside of the prisons, to maintain internal control of the prisons.

The Government permits prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the COPP provide for freedom from arbitrary arrest and detention; however, the security forces routinely continued to arrest and detain citizens arbitrarily at an increased rate.

There continued to be arbitrary detentions by the Metropolitan Police of the federal district of Caracas, the DISIP, municipal police forces, the National Guard, and the PTJ—especially during anticrime sweeps in impoverished sections of major cities. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 8,981 persons detained in sweeps from October 1999 through September, an increase from the 6,236 persons detained in sweeps from October 1998 through September 1999.

Amnesty International reported that in September, police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 5).

In December 1999, security forces arbitrarily detained suspected looters in Vargas state (see Sections 1.a., 1.b., 1.c., and 4).

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger that the accused may flee or impede the investigation. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado (see Section 1.c.). 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 early March, the Government announced that pretrial hearings would be held on weekends to allow the authorities to process detainees in accordance with the COPP's provisions, rather than release suspected criminals. In no case can the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor can it exceed 2 years. Confusion over the new code still

exists, and arbitrary arrests continue to be common. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their hearings.

Before the COPP came into effect in 1999, roughly 70 percent of prisoners had not been convicted of a crime because, under the old procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow and secretive inquisitorial justice system of the old code had led to an inefficient, overwhelmed, and corrupt justice system, which resulted in cases languishing an average of 4 to 5 years in the courts, during which time the accused usually remained in jail. Under the COPP, prisoners accused of petty crimes who have not been convicted but already have served 2 years or the minimum sentence possible for that crime (whichever is lesser) are to be released if they pass a psychiatric examination. During the year, approximately 9,000 prisoners were released under the new provisions and benefits provided by the law. There were approximately 14,200 prisoners at year's end, 45 percent of whom have not been convicted of a crime—a decrease from 57 percent in 1999.

Prisoners carried out protests to demand that the Government expedite the review of the cases of inmates who might benefit from the COPP's provisions. While there were still some prisoners who had not been convicted but already had served 2 or more years in prison, prisoners also had false expectations with respect to the benefits of the COPP, which resulted in tension and violence (see Section 1.c.).

Forced exile is illegal and is not practiced.

*e. Denial of Fair Public Trial.*—The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Prosecutor General, who provides opinions to the courts on prosecution of criminal cases and brings public employee misconduct and violations of the constitutional rights of prisoners or accused persons to the attention of the proper authorities; the Ministry of Interior and Justice, which manages the national police force, oversees the prisons, and files complaints in criminal courts; and the executive directorate of the magistrate, 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.

Both the old code and its 1999 replacement, the new Organic Code of Criminal Procedures, provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the old secretive inquisitorial code, the presumption of innocence was ineffective in the justice system, which became overburdened, inefficient, and corrupt under a paper-intensive, costly, and time-consuming judicial process. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. This new adversarial system of justice gives practical effect to the presumption of innocence and eliminates the secret stage of trial that had existed in the previous system. It also establishes the right to plead guilty and make reparation agreements, a statute designed to clear the overburdened justice system of simple cases and minor offenses. Lengthy delays in trials were still common, although there has been some improvement.

The Government continued to struggle to implement the COPP, which required a major shift in the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, the judge, and the lawyers. The police no longer may detain persons arbitrarily for up to 8 days and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in open court. For the second year, open, oral trials took place around the country despite a shortage of trained personnel and resources. The COPP's successful implementation over the long term is expected to require further progress, including increased training for police and lawyers and a significantly increased number of prosecutors and defenders to handle the workload.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. The Executive Directorate of the Magistrature (DEM), which replaced the Judicial Emergency Commission, reported that there are approximately 275 public defense attorneys for the entire country.

The Government ended the Judicial Emergency created in 1999 to bring about reform of the judicial system; however, significant attempts to reform the judicial system continued. During the year, the DEM—which oversees the selection, training, and discipline of judges—removed 100 judges from office based on charges of incompetence or corruption and suspended an additional 350 judges. Suspended judges

continued to receive salaries; however, some observers charged that their right to appeal was restricted. The Government announced that it expected to hold the first competitive examinations for judicial vacancies, a process established under the COPP, in January 2001 in Miranda and Vargas states. Judges with pending cases against them were not eligible to take the examinations, and judges who had been reprimanded had points deducted from their scores.

In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to “take care” with the process to suspend a judge handling a politically sensitive libel case against editor Pablo Lopez Ulacio (see Section 2.a.). In August Molina resigned, claiming that he lacked the political support needed to continue his duties.

The military courts implemented a similar reform of the military justice system and are making the transition to the new system. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; this represented a fundamental change in human rights policy. However, the provision does not apply to military trials for cases that predate the new Constitution. Human rights NGO’s expressed 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. As a result, military judges trying human rights cases that predate the new Constitution can be subject to improper influence, and offenders might evade punishment for extrajudicial killings and other human rights abuses.

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 infringed on citizens’ privacy rights. Security forces often conducted searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO’s of illegal wiretapping by the security forces.

In April DISIP announced that it had dismissed some 50 agents for engaging in illegal wiretapping of other government agencies. In July during a dialog the DISIP held with the national Ombudsman’s office and NGO’s about a proposed restructuring of the National Intelligence System (which was not carried out at year’s end), the agency stated that it had files on 1 in every 19 citizens (or 520,000 individuals).

During the campaign for the July 30 elections, DISIP agents searched offices of an opposition governor, despite a 1999 promise by President Chavez that the DISIP would not be used for political operations (see Section 3).

*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 while the Government generally respects these rights in practice, some media critics charge that the Government intimidates the media and report that self-censorship is widespread. Individuals and the media freely and publicly criticize the Government; however, concern over freedom of the press increased during the year. A provision in the December 1999 Constitution states that all persons have the right to “timely, truthful, and impartial” information, without censorship. This “truthful information” article has raised concerns among many in the domestic and international media that it could be used by the Government to censor or intimidate the press. In April the governor of Apure state issued a decree requiring “true information” within the state. There were immediate protests, and the governor withdrew the decree. Also in April, officials of the National Electoral Council stated that the Council was considering possible regulations governing the publication of political polls. There were strong protests from the media, and no regulation or legislation ever was proposed formally.

There were numerous allegations of inappropriate government pressure against the media. In January the DISIP questioned two reporters from the daily *El Nacional* about articles they had written about beatings and extrajudicial killings in Vargas in December 1999 (see Sections 1.a. and 1.c.). A subpoena was issued that required one reporter to name her sources. She was threatened with imprisonment or fines for noncompliance; however, no action was taken against her when she refused to provide the information. In May the television program *24 Hours*, hosted by Napoleon Bravo on the Venevision station, was canceled. Bravo charged that government pressure was to blame; government and network officials denied the accusation. Individual journalists and editors have reported receiving intimidating or threatening phone calls.

The Constitution also provides for the “right to reply” for individuals who believe they are portrayed inaccurately in media reports. President Chavez demanded a right to reply on several occasions. However, certain individuals named by the President in his weekly national radio show have complained that they have not been granted the right to reply.

In September a court dismissed a long-running criminal defamation suit against a journalist and editor of the monthly magazine *Exceso*. The Inter-American Press Association had protested the case, in which it was alleged that a businessman who was the subject of a critical article in *Exceso* used improper influence over the judiciary to retaliate against the magazine. A separate criminal defamation suit, against weekly newspaper *La Razon*, continued at year’s end; the International Committee to Protect Journalists has protested this case. On July 8, a judge ordered Pablo Lopez Ulacio, the editor of *La Razon*, placed under house arrest for failure to appear in court to answer libel charges brought against him by Tobias Carrero Nacar, a businessman and friend of President Chavez. In the spring, *La Razon* published articles that alleged that Luis Miquilena, president of the National Legislative Committee (CLN), had influenced improperly insurance contracts to Carrero. The DEM sanctioned the judge who issued the house arrest order, and he eventually recused himself from the case. In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to “take care” with the process to suspend the judge (see Section 1.e.). Lopez was released from house arrest after 1 week; however, a new arrest order was issued, and Lopez went into hiding. Because of the lengthy process and considerable legal costs, both lawsuits have been interpreted by some observers as examples of the use of criminal defamation or libel lawsuits, or the threat of such lawsuits, to intimidate journalists and discourage investigative journalism.

There were no reports of government-sponsored attacks on journalists; however, several journalists were assaulted physically or verbally for what appear to have been political motives. Some observers assert that President Chavez’s aggressive rhetoric in criticizing the media as having portrayed him unfairly has contributed to a climate of intimidation and hostility toward the media that encourages such attacks. At one presidential press conference in Maracay in March, reporters refused to ask President Chavez questions in protest of what one termed “the President’s constant attacks against the media.” During a May 1 campaign march by President Chavez, some partisans attending the campaign chanted slogans that characterized reporters as “traitors” and “enemies,” pushed or hit journalists, and attempted to destroy their equipment. President Chavez later condemned these assaults. In February anonymous leaflets were distributed throughout the Caracas subway that criticized journalists as “enemies of the revolution” and named certain prominent journalists.

In September 1999, government officials complained that international media coverage of events was unfair, and some made allegations of “an international media conspiracy.” Also during that month, a small group of activists occupied the offices of the Associated Press in protest of the news service’s supposed antigovernment stance. A regional radio station alleged that state security agents searched its offices in what the radio viewed as an effort to intimidate.

Instances of bomb threats—and on two occasions in December 1999, discoveries of small explosive devices in or near newspaper buildings—have contributed to what some journalists have called “a climate of intimidation” of the media. In February the Venezuelan Press Association publicly commented on the deteriorating situation for press freedom in the country.

There is no statutory censorship. The Government has tools to influence the press, such as licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. However, in practice, the media environment is free and open, although some journalists believe that self-censorship is becoming more widespread. Few newspapers regularly publish editorials that reflect the view of the newspaper, but signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations do not broadcast overt institutional political opinions, although opinion and talk shows are common.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in November 1995, but the Supreme Court still had not ruled on this matter at year’s end.

Print and electronic media are independent. There are state television and radio stations whose directors are named by the President but whose broadcast policies

are autonomous. The Government financed and published the newspaper *The President's Post* during the first 6 months of the year. The President has a weekly call-in radio show on state-run Radio Nacional. At the President's discretion, his speeches or other public appearances may be declared a "national broadcast." All television and radio stations are required by law to preempt scheduled programming and transmit the national broadcasts in their entirety (on occasion, 2 or more hours) instead. A documentary-style "news program," varying in length from 5 to 15 minutes, produced by the President's staff, began airing in June. The program, which focuses heavily on the activities of the President and the Government, is produced one or more times a week. It is broadcast before regularly scheduled evening news programs. Like the national broadcasts, by law every television station must broadcast these programs.

The International Association of Broadcasting and domestic media figures criticized provisions of a telecommunications law enacted in June. The parts of the law related to broadcast content and frequency concessions were particularly controversial. Article 209 establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believe that this article might allow the suspension of media broadcasts for vague and arbitrary reasons.

In April Monsignor Baltazar Porras, the president of the Roman Catholic Episcopal Conference of Venezuela (CEV), publicly criticized the Government regarding a lack of electoral transparency, growing social instability, and the supra-constitutional activities of the CLN. Following these criticisms, the press reported that DISIP videotaped a Mass said by Monsignor Porras. The Director of DISIP immediately apologized, the agent was suspended, and the national Ombudsman's office opened an investigation of the incident. Bishops also reported receiving telephone threats during the CEV's assembly. In October the governor of Merida state announced that he had made a formal request to the public prosecutor to begin a criminal investigation of Monsignor Porras for alleged financial irregularities relating to the Church's administration of a publicly funded hospital. Because Monsignor Porras has criticized the Government, some observers interpreted the investigation as retaliation for that criticism.

There is no state censorship of books, films, or other media products. Internet access is completely free and uncontrolled.

The Government traditionally has respected academic freedom; however, there have been isolated allegations that individual professors at state universities have been removed or warned of possible removal from their academic positions because of outspoken political views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

The December 1999 Constitution prohibits the use of firearms to control peaceful demonstrations; however, as in previous years, some demonstrations turned violent and were quelled by security forces. According to PROVEA, no persons were killed, but 139 persons were injured during demonstrations from October 1999 through September, compared with 2 persons killed and 77 injured from October 1998 through September 1999. The student and teaching sectors carry out the largest number of protests, and the security forces quell the majority of their demonstrations.

On April 5, residents of Cojedes state protested threats by the CLN to remove Governor Alberto Galindea for alleged financial irregularities. The protests in San Carlos and Tinaquillo turned violent, and the National Guard and state police intervened with tear gas. Approximately 18 persons were wounded and affected by tear gas; the state legislative assembly building was destroyed.

On November 5–6, students in Merida protested the death of a fellow student under suspicious circumstances at the hands of the police. The protest became violent and security forces sent tanks, 350 soldiers, and 150 police to stop the demonstration. Police detained 18 persons.

The Constitution provides for freedom of association, and the Government respects this right in practice; professional and academic associations generally operate without interference. However, on November 21, the Supreme Court ruled that (1) Nongovernmental organizations that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; (2) Religious organizations are not part of civil society and are subject to the same re-

strictions; and (3) The Government has an obligation to ensure that NGO's are "democratic in nature" and therefore that the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. While there is ambiguity as to how the ruling is to be implemented, NGO's, labor unions, and other members of civil society expressed serious concerns about the ruling. The national Ombudsman's office questioned the constitutionality of the ruling and argued that it was up to civil society itself to define its members, not the Government.

*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, and the public order, and the Government generally respects this right in practice.

Each local church must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa to enter the country, which is obtained through the Ministry. Missionaries are not refused entry generally, but many complain that the Government often takes months or years to process a request.

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 are free to establish and run their own schools, but they do not receive subsidies from the Government.

On November 21, the Supreme Court ruled that religious organizations are not part of civil society and that their legal rights therefore were restricted (see Section 2.b.).

On several occasions, leaders of the Roman Catholic Church were monitored or threatened by state agents for political reasons (see Section 2.a.).

*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 respects these rights. However, the Government can suspend the freedom to travel, as it did from June 1994 to July 1995. The Government also restricts foreign travel for persons being investigated for criminal activities. For 3 weeks in December 1999 and in January, the security forces sometimes restricted movement in and out of the areas hardest hit by the floods.

The Constitution recognizes and provides for the right to asylum and refuge and mandates the passage of an organic law to codify this right. However, there is no domestic legislation regarding determination of refugee status, the procedure or criteria to be applied, and no independent organization to handle asylum requests exists. In the absence of any such legislation, the Government established an Interministerial Technical Commission (CTI) in 1999 to address cross-border movements and allows the Venezuelan Bishops' Conference to coordinate with the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. In 1999 there were a total of 188 persons in the country who had been granted refugee status. Approximately 100 individuals filed asylum claims during the year; however, the CTI did not rule on any requests.

The Government in theory provides first asylum. However, in August 500 Colombians entered the country following a paramilitary attack in the La Gabarra-Tibu area of Colombia. The Government provided humanitarian aid but, in coordination with the Colombian Government, quickly repatriated all of the Colombians. The Government determined that the Colombians were not refugees but "displaced persons in transit." This term does not exist in international humanitarian law, and its use appeared to be designed to avoid the Government's international obligations to "refugees." The accelerated procedures adopted by both governments for the return of the Colombians limited their opportunity to seek asylum, despite the intention previously stated by some members of these groups to different NGO's and the UNHCR.

A similar episode occurred in June 1999, when some 3,500 Colombians entered the country in 3 waves following a paramilitary offensive in the Catatumbo area of Colombia. These individuals also were termed "displaced persons in transit," and quickly repatriated in coordination with the Colombian Government. There are reports that some of those returned subsequently were killed by paramilitary forces in Colombia. There were no other reports of the possible forced return of persons to a country where they feared persecution.

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

The 1999 Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to seek the support of voters. The President has extensive powers; however, the legislature appoints the members of the Supreme Court, the National Electoral Council, and the so-called Citizen Power consisting of the Prosecutor General, Ombudsman, and Controller General.

At President Chavez's behest, the National Constituent Assembly (ANC) decreed general elections in order to "relegitimize" authorities elected under the (now-defunct) 1961 Constitution. The new Constitution, which went into effect on December 30, 1999, replaced the previous bicameral legislature with a unicameral body, and membership in the former could not simply be carried over to the latter.

The CNE, whose members were appointed on a temporary basis by the ANC at the end of December 1999, organized the elections. In making these appointments the ANC, citing an earlier Supreme Court decision acknowledging that it had "super-constitutional" powers, made no attempt to apply even in spirit the procedures set forth in the new Constitution regarding civil society participation in the selection process. This unilateral selection by the ANC (which easily approved a slate provided by its leadership) of the members of the CNE was criticized widely by the political opposition, media, and NGO's. These groups also criticized similar measures taken by the ANC in choosing its replacement body—the National Legislative Committee, as well as in making interim appointments to the Supreme Court and the Citizen Power. The CLN was an unrepresentative 21-member panel given responsibility in January for serving as the country's legislature pending election of the National Assembly. The CNE invited representatives from the campaign teams to participate in their work.

Elections were scheduled by the ANC for May 28 for every elected office in the country; more than 35,000 candidates ran for some 6,000 offices. On March 28, the Constitutional Chamber of the Supreme Court dismissed two suits that challenged the constitutionality of the election law and consequently the scheduled date of May 28 for the elections. However, as the scheduled date approached, it became increasingly apparent that the CNE had failed to organize them adequately. Constant changes to the voter data base—which both the opposition and NGO's have alleged were intended to offer electoral advantage to President Chavez's supporters—made it impossible to complete programming of the electronic voting machines or carry out other necessary steps.

Faced with the prospect of a chaotic and highly contested election, the CNE decided at the last minute to serve as a friend of the court in a pending suit by two NGO's before the CNE seeking delay of the election. On May 25, the Supreme Court ordered the delay and gave responsibility for setting the new date to the CLN. This decision also gave the Controller General oversight powers over the CNE.

The members of the CNE resigned following the delay, after the CLN formally requested their resignations. After some initial reluctance the CLN agreed that a "national roundtable," on which some of its members and representatives of civil society would sit, would choose the new Council. That new Council included non-partisan civil society members, including its president. Observers generally agree that the new National Electoral Council, chosen by the CLN on June 3, organized the elections in a competent and fair way.

The CLN set the date for the elections at July 30. It also decreed that, for practical reasons, those elections would be limited to president of the republic, national and state legislators, governors, and mayors, with election of municipal and parish councils to be held on October 1. The CLN noted that July 30 was the earliest date by which even the smaller-scope elections it had now decided on could be held, as the new CNE had to redo almost all the preparatory work of its predecessor. The CLN also noted that to include municipal and parish councils in the July 30 vote would triple the number of candidates and offices and, for organizational reasons, would postpone the vote for several months and further prolong the country's period of constitutional transition. Citizens, including many members of the opposition and media, generally regarded these arguments as valid. However, leading presidential challenger Francisco Arias Cardenas criticized the decision of the CLN to split the elections and hold the first component on July 30, a decision that he alleged was intended to put him at a disadvantage. In July a confidential report by the Con-

troller General was leaked to the press; the report identified deficiencies in the work of the CNE.

During the election campaign, DISIP agents carried out searches of the offices of the opposition governor of Merida state, despite the fact that, upon taking office in 1999, the Chavez Government declared that the DISIP and other intelligence agencies no longer would be used for domestic political purposes. While the stated reason for the operations was to gather evidence for corruption investigations, the timing of the searches gave the impression of political harassment.

On July 30, voters reelected President Chavez with 59 percent of the vote. His challengers, Francisco Arias Cardenas and Claudio Fermin, received 38 percent and 3 percent respectively. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly, although not the two-thirds majority required to pass most important pending legislation. His supporters also won half the governorships. The Organization of American States and observers from various countries were of the opinion that, despite some technical irregularities, the vote was generally free and fair. A limited number of voting machines failed to accept ballots or otherwise broke down, and there was disorganization at some polling places, but in the opinion of observers these were localized problems. Standard backup procedures for voting machine failure, such as placing ballots in sealed boxes for later manual counting or processing by functioning voting machines, were followed. However, some of the losing candidates alleged fraud. For example, Arias maintained, among other things, that voting machines were programmed to undercount votes received by him. He and other disappointed candidates were pursuing existing administrative and judicial remedies at year's end. Losing candidates for several governorships alleged that fraud or irregularities affected the outcome of the voting. The CNE investigated these allegations, ordered recounts in some cases, and determined that the disputes were valid in several states, in which it ordered partial revotes. The CNE's follow-up work to the July 30 elections continued at year's end.

On December 3, voters participated in elections for municipal and parish councils and voted on a controversial referendum on labor issues (see Section 6.a.).

In December the President and the National Assembly replaced the interim appointees to the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGO's, who argued that the procedures set forth in the new Constitution regarding civil society participation in the selection process were not followed. The Ombudsman and others challenged the selection procedure in the courts; however, the appointments were made and the new officials took office in December, despite the fact that the Supreme Court had not yet ruled on the legal challenge.

In November the National Assembly passed an "enabling law" that gave President Chavez the authority to legislate by decree on selected issues related to the economy, reorganization of government ministries, and crime. However, only one law had been passed using these new powers by year's end.

Women and nonwhites participate fully in government and politics; however, they remain under-represented in senior leadership positions and national elective office. The National Assembly's Family, Women, and Youth Committee promotes political office-holding opportunities for women. In the July 30 elections, women won 20 seats as deputies in the 165-seat legislature. In August President Chavez named 3 women to his 14-member Cabinet as Ministers of Labor, Trade, and Environment. In December President Chavez appointed Adina Bastidas as vice president.

Indigenous people traditionally have not been integrated fully into the political system due to their limited knowledge of politics, low voter turnout, geographic isolation, and fewer economic and educational opportunities. During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote. The Yanomami argued that the Government's slowness in providing national identity cards, which are required to register to vote, was infringing on their right to suffrage. The Supreme Court ruled against the group's request for an exception to be made to the registration deadline, and they were unable to vote in the July 30 elections. The group of Yanomami subsequently was able to register, and they voted in the December municipal elections. The new Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 30 election. There are no indigenous members of the Cabinet.

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

A wide variety of human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases.

In January President Chavez criticized a report by PROVEA on the human rights violations in Vargas state as “suspicious and superficial” and said that the NGO’s refusal to name the witnesses on which the report was based was irresponsible. The President later pledged to investigate the abuses and met with the victims’ families, and the Government invited the IACHR to make an on-site visit to the country, which had not taken place at year’s end.

On November 21, the Supreme Court ruled that NGO’s that receive funding from foreign governments or whose leaders are not Venezuelan are not part of “civil society” and therefore may not represent Venezuelans in court or bring their own legal actions (see Section 2.b.).

A fundamental change in the Government’s own human rights bodies was made when the December 1999 Constitution created the position of “Defender of the People” (Ombudsman). The Ombudsman is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Prosecutor General and Controller General, makes up the Citizen Power branch of government. Throughout the year, the country’s first Ombudsman, Dilia Parra, repeatedly and frankly advocated for the respect of human rights and assisted investigations of abuses by acting as a liaison between complainants and the Prosecutor General. Despite a limited budget, the Ombudsman’s office established branches and public attention centers in all 23 states. On December 20, in a process that some observers charged was unconstitutional, the National Assembly named attorney German Mundarain as the new Ombudsman to replace Parra (see Section 3). The new Constitution also obliges the Government to make amends to the victims of human rights violations and commits it to implement decisions of international bodies on individual cases of abuse.

Human rights groups remained concerned about the Chavez administration’s lack of a human rights agenda and a lack of support for the national human rights agenda formulated by the previous Government in a July 1997 symposium with NGO’s. Unlike the previous year, President Chavez did not meet with NGO’s to discuss human rights issues. The Government continued to fail to support the National Human Rights Commission created by former President Rafael Caldera in 1996 as a mechanism to coordinate the Government’s human rights programs and to serve as a forum for dialog with NGO’s. Despite the commission’s paralysis, NGO’s have developed good relationships with specific government bodies such as the Ministry of Education to develop educational materials on human rights, and the Foreign Ministry to discuss the resolution of existing human rights cases against the Government in international courts.

The Defense Ministry’s human rights office expanded its staff from one to three officials and continued to carry out training courses as part of the armed force’s curriculum. The Defense Ministry continued to reject the validity of NGO reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the July 30 elections, the National Assembly established an Interior, Justice, Human Rights, and Constitutional Guarantees Committee.

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

The 1999 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 does not protect women adequately against societal and domestic violence, ensure the disabled access to jobs and public services, or safeguard adequately the rights of indigenous people. Amnesty International reported that in September police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 1.d.). The family of one of the detainees filed a formal complaint with the Public Ministry.

*Women.*—Violence against women is a problem, and women face substantial institutional and societal prejudice with respect to rape and domestic violence. Domestic violence against women is very common and has been aggravated by the country’s economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997, the most recent year for which statistics were available. According to local monitors, the police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women generally are unaware of legal remedies and have little access to them. On January 1, the 1999 Law Against Violence Toward Women and Children came into force. The PTJ opened the division against violence to accommodate its provisions. This law requires the police to receive reports of domestic violence and obligates hospital personnel to advise authorities of abuse.

The law makes rape extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the violation. A provision in the Penal Code provides that a man guilty of rape can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to deal responsibly with rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that such low figures do not accurately portray the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt. There were reports that a number of rapes were committed in Vargas state in December 1999 during the lawlessness that followed the flooding.

In 1996 the National Women's Council (which was reorganized during the year and renamed the National Institute for Women), an agency of the presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor, prepared a manual on violence against women and children, which includes information on where the victims might obtain assistance. There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned governmental agencies.

Sexual harassment in the workplace is a common problem.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Women and men are legally equal in marriage. Women account for roughly half the student body of most universities and have advanced in many professions, including medicine and law. In June the Government announced its intention to allow women to attend military academies and serve in expanded roles as officers in the armed forces; however, this had not occurred by year's end. Women gradually have surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still are underrepresented in the higher ranks of labor unions and private industry and, on average, earn 30 percent less than men.

The 1999 Constitution provides for sexual equality in exercising the right to work. The 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 a 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 major labor federation, these regulations are enforced in the formal sector, although social security payments often are delayed.

*Children.*—Government expenditures on education, health, and social services increased during the year due to an improved economy and a larger government budget. While the law provides for universal free education, about one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to UNICEF, only 75 percent of eligible children enter the first grade. During the year, some 500,000 children attended school for the first time when the Government prohibited registration fees. However, the 2000 annual report of the Community Centers for Learning (CECODAP) stated that 500,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly. In 1998 the Government attempted to remedy this problem by adopting a new regulation that requires hospitals to register the births of all children; during the year, the Government sent mobile teams into poor neighborhoods to register minors.

According to CECODAP's study, an estimated 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. According to a 1999 study by the National Nutrition Institute, 23 percent of children under the age of 15 have a nutritional deficit. Approximately 76 percent of minors live in poverty. These conditions contribute to the increase in preventable diseases that are leading causes of infant mortality. Children living in Vargas state suffered the effects of the flooding in that area, particularly with regard to sanitation and schooling.

An increase in poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. A 1994 survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking. Some 40,000 children were exploited sexually, according to a 1994 study.

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 claim that curfews permit the police to act arbi-

trarily in detaining persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers (see Section 1.c.).

In October 1997, Amnesty International reported past incidents in which minors were subjects of extrajudicial killings and abuse, as well as deficiencies in law and practice with regard to the detention of children. For example, security forces and law enforcement authorities often detain minors together with adults (see Section 1.c.). In April Congress passed the Organic Procedural Law on Adolescents and Children (a criminal code); however, observers expressed concern over the slow implementation of the law's provisions.

Reports of child abuse are rare due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, although very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

Children's rights advocates criticized the Government's efforts to reunite children and parents who had been separated in the flooding in Vargas state. At year's end, some 12 months after the natural disaster, some children still were separated from their families. CECODAP estimates that there are 120 children in refugee centers who have not yet been returned to their families. The national Ombudsman's office is investigating whether some of these children may have been trafficked. There were also reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids (see Section 6.f.).

*People with Disabilities.*—The physically disabled have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment.

A 1993 comprehensive law to protect the rights of the disabled requires that all newly constructed or renovated public parks and buildings provide access for the disabled. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government has not made a significant effort to implement the law, to inform the public of it, or to try to change societal prejudice against the disabled.

*Indigenous People.*—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plague their communities. There are approximately 316,000 indigenous people in 27 ethnic groups.

The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, and allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land, but many do not want to since most indigenous groups reject the concept of individual property and want the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

At year's end, the Supreme Court had not yet ruled on a lawsuit filed by environmental and indigenous organizations challenging a 1997 decree that permitted the expansion of legal mining activities in the Imataca forest reserve. The groups charged that only Congress can change the nature of the reserve, that there was an inadequate public review process prior to the change, and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area. In November 1997, the Supreme Court ordered the Government not to issue any new mining concessions in the Imataca reserve until the court ruled on the constitutionality of the presidential decree. In 1999 President Chavez said that he planned to enact a new law to regulate the use of the reserve and that the 1997 decree would be annulled, but at year's end no action had been taken.

The controversy over infrastructure development and the maintenance of traditional indigenous lifestyles is most evident in Bolivar state, where the Pemon continued to protest the building of power lines that export electricity to Brazil through Canaima national park. On July 20, a total of 55 of the 58 Pemon communities affected by the power lines signed an agreement under which the Government pledged, among other commitments, to establish a commission for the demarcation of native lands and to create a development fund for indigenous people. However,

many Pemon remain highly skeptical of the Government's willingness and ability to comply with the accord's provisions.

The Yanomami, among the most isolated of the indigenous people, have been subject to persistent incursions into their territory by illegal gold miners. The miners have introduced not only new diseases but social ills as well. In December 1996, a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleged that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In May 1998, the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In late 1999, an out-of-court settlement was reached under which the Government pledged, among other commitments, to provide better security and to carry out health care projects in the area.

During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote (see Section 3).

Since 1998 hundreds of members of the Warao indigenous group have migrated from their traditional homelands in the swampy Orinoco delta region to the capital of Caracas where they live in the streets, selling their traditional crafts and begging. The Warao say that flooding and petroleum exploration have eroded their traditional means of survival, which are fishing and horticulture. In addition, many Warao no longer want to or no longer possess the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police have maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998 they returned, on average, groups of 100 Warao, at least 15 times. Many of the Warao return to Caracas, citing lack of jobs and money in the delta and their ability to receive approximately \$225 (130,000 bolivars) per week in handouts in Caracas.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Both the Constitution and labor law recognize and encourage the right of workers to organize; however, concerns over labor rights increased during the year. According to the new Constitution, all workers, without prejudice or previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as to join—or decide not to join—these organizations in accordance with the law. The Constitution provides that these organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Additionally, labor organizers and leaders may not be removed from their positions during the period of time and under the conditions that they exercise their leadership functions. However, Articles 23 and 95 of the 1999 Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the internal elections of labor confederations, in violation of the Government's commitments to Conventions 87 and 98 of the International Labor Organization (ILO) charter. On December 3, a referendum was held that was followed by the resignation of the leaders of the country's major labor union confederation.

At year's end, labor law pursuant to the 1999 Constitution had not yet been drafted. The existing comprehensive 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees (except members of the armed forces). The code mandates registration of unions with the Ministry of Labor, but it reduces 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 then only for reasons listed in the law, such as the dissolution of a firm by agreement of two-thirds of the membership.

The ILO repeatedly has expressed concerns that the Organic Labor Act 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 workers). The ILO also notes that the long and detailed list of duties entrusted to workers' and employers' organizations and the requirement that foreign workers must be in residence for more than 10 years in order to hold trade union offices also are in violation of the Convention on Freedom of Association.

In early March, the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.b.) and suspended internal labor leadership elections for the same period of time. On July 14, the CNE prohibited labor leadership elections until February

2001. In late March, the CLN passed a decree that violated the Campesino Federation's right to associate freely by intervening in the federation's right to hold internal elections, embargoing federation property, and placing it in the custody of the national Ombudsman.

One major union confederation, the Confederation of Venezuelan Workers (CTV), three small union confederations, and a number of independent unions operate freely. About 20 percent of the national labor force is unionized. The CTV represents most of the unionized workers and has a membership of 800,000 workers. The CTV is especially strong in the public sector. The CTV's top leadership includes members of several political parties, but the majority are affiliated with one of the traditional parties, Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally have influenced each other.

On December 3, the Government held a public "workers referendum" to consider the "overhaul of union leadership" and the "suspension" of union officials. International labor authorities, including the International Confederation of Free Trade Unions and the ILO, declared the referendum to be a violation of freedom of association and an unacceptable government intervention in organized labor affairs. The fact that the referendum included the participation of all registered voters on an issue affecting independent labor organizations was viewed as particularly offensive to international labor standards and the right of freedom of association. A CNE spokesman defended the participation of all registered voters, observing that all citizens "are workers or related to workers." The Public Prosecutor and Ombudsman both declared the measure unconstitutional as violations of freedom of association and the Government's international agreements, as provided for in the 1999 Constitution, and recommended that the Supreme Court do the same; however, the Court ruled in favor of moving forward with the referendum.

In the referendum voters were asked to approve an "overhaul of union leadership in 180 days, under a special law drafted by the electoral council, in accordance with the principles of term limits and universal, direct and confidential suffrage" in accordance with the Constitution and to suspend "the function of union officials" during that time. Approximately 65 percent of those citizens who voted approved the question. The CNE later announced that voter turnout was 23 percent.

On December 6, the CTV leadership voluntarily resigned and was replaced by a transitional committee consisting of a broad spectrum of labor and civil society representatives that included individuals connected with the CTV as well as other labor organizations not traditionally aligned with the CTV. Following this change in leadership, the parties involved began to prepare for discussions on reforming the country's labor union structure.

On September 3, President Chavez announced the creation of the "Bolivarian" Worker's Force (FTB) as a new labor federation allied with the ruling MVR to displace, or at least compete with, the CTV. President Chavez said that the FTB was preparing an "all out war" to "demolish" the CTV. Seats on the new "transitional committee" heading the CTV had been set aside for members of the FTB.

The new Constitution and the comprehensive 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by the law, which still was being drafted at year's end. However, public servants may strike only if the strike does not cause "irremediable 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 the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, firefighters, teachers, and transportation workers. In mid-October, the main petroleum workers' union, FEDEPETROL, held a successful 4-day strike against the state oil company PDVSA and persuaded the Government to concede to strikers' demands for a 30-month contract. The strike was settled through tripartite negotiations, which included the active participation of then-Vice President Isaias Rodriguez, who noted the "historic role" of labor leaders in gaining benefits for workers.

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally; however, a November Supreme Court ruling regarding the legal abilities of NGO's that receive funding from foreign sources potentially could restrict the international affiliations of union organizers (see Section 2.b.).

*b. The Right to Organize and Bargain Collectively.*—According to the December 1999 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 State is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the solution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly has expressed concerns that this provision restricts freedom of association and in March 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 legislative body approves the decree.

The law also prohibits employers from interfering with the formation of unions or with their activities or from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The 1999 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 have been able to impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the 1999 Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, if a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to his years of seniority.

The right to bargain collectively was violated in early March, when the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.a.). On July 14, the CNE extended the decree until October 15.

Labor law and practice are the same in the sole export-processing zone, located in Punto Fijo, as in the rest of the country.

*c. Prohibition of Forced or Compulsory Labor.*—The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally are not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The 1990 Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector, in which an estimated 1.2 million children work. According to UNICEF, approximately 47 percent of children are in the labor market, and work in agriculture, as artisans, in offices, and in the services sector.

Primary school education is compulsory, free, and universal (see Section 5). However, 64 percent of children leave school before the ninth grade. In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher considering that those who stated that they attended school also reported that they worked on average 7-1/2 hours per day, 4 to 7 days a week.

The 1990 Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelters, in occupations that risk life or health, that could damage intellectual or moral development, or in public spectacles. The 1999 Constitution prohibits adolescents from working at jobs that will affect their development, protecting them from economic and social exploitation.

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under the age of 18 may work only between the hours of 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the National Institute for Minors survey of working children, half the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of children who work in the informal sector have permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—The 1999 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 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. The monthly minimum wage is \$206 (142,000 bolivars) in the private sector for urban workers and \$170 (118,000 bolivars) for rural workers, effective May 1.

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 are added to these minimum figures; they vary with the worker's individual circumstances but in general increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that a worker's income is often less than the cost of a family's basic monthly food basket, estimated by the Center for Documentation and Analysis for Workers in August at \$308 (212,205 bolivars). The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, stood at \$905 (624,413 bolivars) for August.

Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. The Ministry of Labor has enforced minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector where labor laws and protections generally are not enforced.

The 1999 Constitution also 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 from working extraordinary hours, and workers also have the right to weekly time away from work and annual remunerated vacations. Some unions, such as the petroleum workers, 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 enforces these standards in the formal sector.

The 1999 Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which is 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 1990 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 close down unsafe job sites. Under the law, workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—The new Constitution prohibits trafficking in persons, and this provision was codified in legislation during the year. There were reports that women were trafficked to Spain for purposes of prostitution. The national Ombudsman's office is investigating whether some of the children separated from their parents in the flooding in Vargas state may have been trafficked (see Section 5). There also were reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids. The ease with which fraudulent government documents of nearly all types are obtained contributed to the trafficking problem. The Government's efforts to prevent trafficking are the responsibility of the Prosecutor General's family protection directorate (which also handles prosecutions) and the National Institutes for Women and Minors. NGO's such as CECODAP also are involved in activities to combat trafficking.